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Episcopal and Capitular Revenues Commission.

MINUTES OF EVIDENCE

TAKEN BEFORE

HER MAJESTY'S COMMISSIONERS.

Presented to both Houses of Parliament by Command of Her Majesty.

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1850.

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MINUTES OF EVIDENCE

TAKEN BEFORE

HER MAJESTY'S COMMISSIONERS.

Friday, 23d February 1849.

Mr. THOMAS WILLIAM BUDD examined.

Mr. T. W. Budd.

23d Feb. 1849.

1. ARE you the Agent having the management of the Bishop of London's Estates at Paddington?—Yes. Many years ago Sir Thomas Frederick held a lease of the Paddington Estate, containing about 600 acres, and of the rectory and tithes of Paddington, belonging to the see of London, upon three lives, at a rent of 43*l.* 6*s.* 8*d.*, renewable as the lives dropped upon payment of a fine.

2. What date was that?—The last lifehold lease was dated 1776. Sir Thomas Frederick died in 1770, and left two daughters, one married Sir John Morshead, Baronet, and the other Mr. Robert Thistlethwayte, and the lease of 1776 was granted to Gascoigne Frederick, as a trustee for them. On the marriages of these two ladies their respective moieties in this leasehold property were settled upon them and their husbands and children. In 1795 an Act of Parliament was obtained, intituled "An Act for enabling the Lord Bishop of London "to grant a Lease, with powers of renewal, of lands in the Parish of Paddington in the "County of Middlesex, for the purpose of building upon." By this Act the character of the property was changed, it was no longer to be held upon leases for lives, renewable on fine, but to be held upon a lease for ninety-nine years, renewable at the end of the first fifty years on payment of a fine of 1*l.*, and so on for ever; and the rents reserved to the Bishop of London and his successors were 43*l.* 6*s.* 8*d.* (the old rent) and one third part of all the rents, issues, ground rents, and profits reserved and to be reserved upon or in respect of the said premises comprised in the lease, after deducting the said rent of 43*l.* 6*s.* 8*d.*, a pension of 120*l.* to the curate of Paddington, 15*l.* a year to the churchwardens of Paddington, and the land tax and the landlord's taxes.

3. You mention "ground rent" there. When the leases of the houses to a builder are out, all the accruing houses are to be re-let?—They fall in. The Act of 1795 was obtained, as the title to it states, for the purpose of converting the estate, or a considerable part of it, into building ground, the tenure by which it was theretofore held rendering it incapable of being let to builders for terms certain. The Act therefore, after authorizing the Bishop of London to grant a lease for ninety-nine years to trustees for the benefit of himself and successors and of the Morshead and Thistlethwayte families, renewable for ever, as above stated, directed that those trustees should have power to grant building leases of any part of the estate, not exceeding in all 200 acres, with the consent of the bishop for the time being, and to grant leases at rack rent, with the like consent, of any other part of the estate, and in all the leases one third part of the rents were to be separately reserved to the bishop and his successors. In May 1795, a lease for ninety-nine years was granted, pursuant to the Act, by Beilby then Lord Bishop of London to Thomas Wood, Esquire, Sir John Frederick, Baronet, and Arthur Stanhope, Esquire, trustees of Lady Morshead and Mrs. Thistlethwayte's settlements, and the old lifehold lease was cancelled. When the above Building Act came into operation many alterations and further provisions were found necessary, and four further Acts were obtained in 1804, 1805, and 1808, and 1825. Those Acts were to amend and enlarge the powers of the first Act. In 1798 a certain portion of the estate was let under an Act obtained for that purpose to the Grand Junction Company, renewable for ever, at a rent of 884*l.* a year, and in 1812 another portion of the estate was let under another Act obtained for that purpose to the same company, renewable for ever, at a rent of 570*l.* 3*s.* a year, and the company were authorized to underlet certain parts of the ground let to them upon building leases. The ground

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let to the Grand Junction Company contains together about eighty-four acres, and the rents paid for the same (together 1,454*l.* 3*s.* a year) will never vary. On the death of Thomas Wood, one of the trustees, Sir Frederick Morshead, the eldest son of Lady Morshead, and Henry Frederick Thistlethwayte, the eldest son of Mrs. Thistlethwayte, were appointed trustees of the estate in his stead, and this was effected by the introduction of a clause for the purpose in the Act to amend, passed in 1804; then the trustees were Sir John Frederick, Arthur Stanhope, Frederick Friese Morshead (afterwards Sir Frederick Friese Morshead), and Henry Frederick Thistlethwayte. In 1825 the four trustees were reduced to two, namely, Mr. Stanhope and Sir Frederick Triese Morshead, and the latter declined to act; it then became necessary to apply to Parliament for an Act to appoint new trustees; and as many difficulties had arisen from the number of Acts which had been obtained for the leasing of the estate, and certain improvements for the estate were suggested, an Act was obtained in 1825, under which the estate is now managed. By this last Act Thomas Thistlethwayte and Thomas Somers Cocks were appointed trustees of the estate, jointly with the said Arthur Stanhope, and they were empowered, with the consent of the bishop and his successors, to grant building leases, and make contracts for building leases of any part of the estate not exceeding 400 acres. It was then increased from 200 to 400 acres.

4. That limitation exists now?—It exists now, but certain lands comprised in a letting to the Great Western Railway Company and the lands comprised in the letting to the Grand Junction Company are declared by the Acts of Parliament under which they were taken to be no part of the 400 acres.

5. Was there any specific Act for that?—It was under the Railway and Grand Junction Acts.

6. How much have you now existing as land, on which you might build, if you had power, and cannot build because you have not power?—About 218 acres; and there are about 130 acres left of the 400 to which the building power extends. The stipend of the curate of Paddington was increased to 200*l.* a year, and the bishop and trustees were empowered to give an acre of ground to the curate of Paddington as a site for a minister's residence, and four acres of ground to the Church Commissioners for new churches and ministers residences, and they were empowered to raise sums not exceeding 20,000*l.* upon mortgage of the estate at five per cent. for the purpose of making drains, roads, streets, squares, and improvements on the estate, which should be paid off by taking fines on renewal of the leases which might fall in. The trustees have power under the Acts to sell brick earth, gravel, and sand out of the estate, of which they heretofore availed themselves to a considerable extent, and which contributed to form a fund for the making of drains, streets, roads, and squares, but they were obliged to aid the fund required for those purposes by raising money by mortgage, they accordingly raised 10,000*l.* in the year 1811, and 10,000*l.* in the year 1826. These two mortgages have been subsequently paid off.

7. What leasing powers had the trustees?—Leasing powers simply for ninety-nine years, at the best rents, to be previously approved by the bishop; all the mortgages upon the estate have been paid off, and the land tax redeemed. There were no fines ever taken upon leases. The mode in which the mortgages were paid off was this: when the Great Western Railway Company came into Paddington they obtained powers under their Act to take all the land they wanted of the Paddington Estate upon lease renewable for ever, in the same way as the Grand Junction Company did; and when the rent was agreed upon they were required to buy up a portion of that rent at four per cent., with a view to the redemption of the mortgages, and paying off the incumbrances on the estate; they by this means reduced the agreed-upon rent to 2,366*l.* 12*s.* a year, by payment of a sum of 30,000*l.*, which was applied in paying off the mortgages and incumbrances; they also made roads and sewers for the benefit of the estate; the company also built a bridge over the canal, by which a communication of great importance to the estate was opened at that point with the New Road and the City. Formerly there was a conduit at Bayswater, with pipes leading through the Paddington estate to convey water from the springs near the conduit to London, which belonged to the corporation of London under a grant in Henry the Eighth's time of the waters and springs which arose in Paddington on the estate; but the great supply of water from other sources rendered this conduit and its pipes and appendages of little use, and as they were very prejudicial to the Paddington estate, by interrupting the buildings upon it, an Act was obtained by the Bishop of London and the other proprietors of the Paddington estate, in 1812, to buy up the said conduit, springs, and pipes, and to sell a small portion of the Paddington estate for that purpose, which was done accordingly. The drainage from the brook called the Westbourne Brook used to find its way into the Serpentine River, and a great portion of the drainage of the estate went in that direction, and part of the 20,000*l.*, to the extent of 10,000*l.*, was applied, some twenty-five years ago, in building a sewer through Hyde Park. The estate pays Her Majesty's Commissioners of Woods and Forests 10*l.* a year for this drainage.

8. Did not that bring your land into the market?—It no doubt tended to do so.

9. You have no power of absolute sale?—None.

10. Have you many applications made to you on the supposition you have?—No, none whatever.

11. Do

11. Do you find that term of ninety-nine years satisfies every one?—Yes. The leases for ninety-nine years are in most cases granted in pursuance of building contracts; in which cases the Act provides, that where the yearly rent or rents to be reserved in such leases shall be greater than a due proportion (with reference to the quantity or situation of the land to be demised) of the original rent, the same shall not exceed one seventh of the rack rent or value of the land and buildings by such lease demised, and that the rents to be reserved by any lease granted in pursuance of the Act shall not be less than forty shillings.

12. How many houses are now built on that estate?—I do not know how many houses there are.

13. How many leases are there?—At Lady Day 1848 there were 1,683 leases granted.

14. What is the ground rent?—21,441*l.* 0*s.* 9*d.*

15. Those leases are not let to a company of large speculators, but to individuals, are they not?—Those leases are all founded upon a previous contract with individuals. The surveyor of the estate lays out a scheme for streets, squares, and roads; roads of certain width, and houses of certain value to be built under certain restrictions as to elevation and materials; a contract is then entered into with the builder at progressive rents. Here is a letting that has been completed (*producing a book*); this piece of ground was let to a man of the name of Jonathan Riches, in 1838, at rents, in the first year 15*l.*, the second 30*l.*, the third 60*l.*, the fourth 100*l.*, the fifth 150*l.*, the sixth 180*l.*, the seventh 250*l.*, the eighth 312*l.*

16. Ground rent?—Ground rent.

17. Is that for one house?—No; this is for a piece of ground on which he was to build a number of houses. One of the provisions in that contract is that after he shall have built his houses and covered them in, and done the particular works required of him, that is, making roads, gardens, and sewers, and doing all that is specified under his contract, he shall be entitled to a lease or leases, at such rents as shall be approved of by the bishop and trustees, not exceeding one seventh of the annual value, nor less than 40*s.*, in case he does not require to have an equal apportionment of the original rent. Suppose he has built five or six houses, the surveyor's certificate is sent to us that the builder is entitled to a lease, say of four of the houses (we always require at least one house to remain unleased as security for the fulfilment of his contract); accordingly he applies for his lease, and it is granted to him at a proportion of the original rent. (*Producing a book*). This is the mode of keeping the builder's accounts; every lease under the head of this (take Riches's) we enter until the whole 312*l.* are exhausted, and every lease is numbered; here is one of 750*l.* This mode of entering up every rent agreed to be paid under building contracts, and the leases granted in pursuance of such contracts, is found to work exceedingly well. The rental account has corresponding numbers; take No. 887. in the building contract book as the number against one of the leases granted, and then referring to the rental book and that same number, 887, shows the rent 5*l.*, Jonathan Riches, lessee. There is also a terrier, or field book, of every letting at rack rent, with its denoting number. The rent-charges in lieu of the tithes which have been commuted are also identified in the rental by a number.

18. Do you happen to know any thing about the mode of leasing the Islington estate under the Ecclesiastical Commission?—No, I do not.

19. Was the consideration for foregoing all future fines on this large property on the part of the bishop that he should immediately and instanter come into possession of a third of the rents?—Yes.

20. Was not that a most imprudent bargain as far as the future interests of the Church were concerned?—No, I think not; if some such an arrangement as that had not been made, the estate would not now be in the thriving condition it is. The arrangement was such as to be most beneficial to all parties.

21. Beneficial to the actual bishop?—Yes, and to all succeeding bishops. If the estate had remained in its original condition no one would have built upon it, because there would have been no security for their investment.

22. Unless you had legislation the property would have remained as it was; but what do you say, supposing there had been an Act to enable the bishop and trustees to grant leases for ninety-nine years? Supposing that simply done, and that the bishop had remained in the same relation to the lessees that he did before, that whenever the fine accrued he would have had a fine on the whole increased value of the estate?—In such a case the bishop would have been entitled to a fine on the dropping of a life; and that fine would, I apprehend, have been calculated upon the rack value of the estate, whilst his lessees would, as regards a large portion of the estate, have been in receipt of a mere ground rent.

23. It would not make any difference whether they were secured ninety-nine years, with a joint lease from the bishop under the Act, or whether they had ninety-nine years otherwise?—No. If the estate had been turned into a freehold and divided into parts, the bishop taking a part and the original lessees the remainder, the interests of the bishop would not have been so well served as by the plan adopted in 1795.

24. That

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24. That applies only to an estate under the circumstances in which that Paddington estate was; you turn an interest of two lives into a perpetuity?—Yes.

25. How is it possible the reversioner should not be very much injured by that?—Because, as in this case, the bishop has still his interest undiminished. He benefits in the same ratio as to his one third of the perpetuity, as the other parties do as to their two thirds. I am of course assuming that the interest of the bishop in the estate was properly calculated to be a third of the whole.

26. Might you not have assessed the fine on the reserved rent, with a sort of estimate of the value of the reversion?—That must have been so provided by the Act.

27. Is not this what your Act does for the convenience, and very great convenience, of the lessees, and to prevent them being called upon to pay a fine on that which they ought to pay a fine for, namely, the actual value of the property; for their convenience you present them with an estate in perpetuity, and is not that the way you have been getting rid of the difficulty?—Not so. It was, I conceive, because it was for the interest of all parties to deal with the estate as a perpetuity, to make it as nearly a freehold as possible.

28. I am not talking of the relation between the actual lessees and builders. Here are two persons interested, the bishop, as tenant for life, and the two immediate lessees of his. You say if they had been left liable to what was their legal liability, namely, to pay fines on renewals, they could not have paid fines on the rack rent, because they were too large?—No; because they would not be in possession of the rack rent.

29. And they could not have paid fines on the rack rent?—No.

30. That depends on their mode of dealing with the people who built. As they sold the land to builders, could they not have reserved the larger rents?—No; builders would not enter into such contracts.

31. Is not this the effect: certain lessees come and say, "If you deal with me in the "ordinary way I shall not be able to pay a fine, because I shall have let nothing, and "cannot pay a fine on the rack rent," and that your mode of getting out of the difficulty is to give them a perpetuity?—To retain the principle of fines here would, I conceive, work an injustice; viz., if the fines are to be levied in the ordinary way the parties here to pay the fine would not be in receipt of rack rent from that portion of the estate let on building leases, whilst they would be called upon to pay a fine assessed upon the rack value of the whole estate. The rent I receive for a house in Hyde Park Gardens may be 2*l.* a year, the annual value of the property at the time the fine accrues, supposing fines to be payable, might be 700*l.* or 900*l.*, and I may be called upon, although I am only in receipt of 2*l.* a year, to pay a fine on 900*l.*

32. Very inconvenient to you?—Yes.

33. In the meantime what is the reason at the end of the ninety-nine years that the lessees are still to continue to be possessed of two thirds of the rack rent?—Because, upon a calculation of the respective interests, they were assumed to be entitled to the extent of two thirds.

34. They were joint proprietors?—Yes. I wish to explain what I conceive to have been the course pursued. I believe, and have understood, that it was a matter upon which an actuary (I believe Mr. Morgan of the Equitable) was employed to estimate the relative value of the shares in the estate, the interest of the bishop and the interest of his lessees upon the then existing leases for the three lives.

35. And the duration of those leases?—Yes.

36. The value of the fee?—The value of the fee. It was calculated, I presume, what the bishop's share or interest in that was, and what the lessees interests were; and those were brought to so nice a calculation as that the supposed interests of the three were divided into seventy-two parts, the bishop taking twenty-four, and the others taking the remainder of the seventy-two.

37. Instead of dividing the corpus of the estate between them, they kept the corpus together and divided the rents?—Quite so.

38. It was a mode of selling the reversion?—It was a mode of dealing with the then present interests and virtually the reversion in two thirds.

39. Selling the reversion of two thirds?—Yes, virtually so.

40. Take the ordinary case, such as that where the archbishop at Lambeth had the fee of the whole estate; the building leases were obtained under an Act of Parliament; what would have been the archbishop's probable claim in division of the ground rent there? A half?—I can hardly answer that off-hand.

41. Do you know what the custom is at all?—No.

42. I want to get a clear idea of the particular transaction; is it this, that there is a sale of the reversion quoad two thirds of the property, the consideration for which sale was, the bishop *in esse* should at once come into possession of the immediate accruing rents?—Yes, a third of the rents and virtually a third of the reversion.

43. He keeping his third of the reversion?—Yes.

44. He

44. He sells two thirds of the reversion, and the condition of that sale is that he, the then actual bishop, shall come into the immediate possession of the rents which he could not otherwise have touched for some time?—As to a third of the rents.

45. As to the ground rent for those 100 acres which is not built upon, will the ground rents there be more valuable in consequence of what has been done in improving the estate?—These 100 acres are much improved by what has been done on other parts of the estate, but they will not yield so large an acreage rent as the land already built upon.

46. It will yield much more than it would otherwise have done?—Yes.

47. Were there any old buildings on this estate?—Hardly any; there was formerly an old farm-house.

48. Not any mass of buildings?—No; there were no permanent buildings on the estate.

49. On the part that is not let do I understand you to say there were no buildings now?—It is only grass land and garden ground.

50. The town is approaching it; have you any doubt it will be all built upon in another fifty years?—I have not a shadow of doubt about it. If the owner of this property had been a speculative person I believe the whole might have been let for building purposes by this time.

51. What is the obstacle?—We have no money to lay out in forming roads and creating frontages, and making sewage. We are dependent entirely upon builders; in fact we impose on them the necessity of creating the very frontage that we propose to let to them. I have the management of a property in the adjoining parish, and in one year I let building ground to the extent of 2,000*l.* a year in small plots, merely from the circumstance of the roads and sewers having been made at the freeholders expense, at once creating the frontage he desired to let.

52. Could not the trustees, the persons you represent, raise money by way of mortgage?—They did to a certain extent, but that was exhausted, and further powers could not be obtained without going to Parliament.

53. The difficulty would not exist, would it, if these lands were in the hands of a body who had unlimited means of borrowing?—No.

54. Does that book contain the principal part or the whole of the property under your management?—Every thing is brought into this book.

55. You have no experience then of dealing with masses of old houses?—Not exactly with masses of old houses.

56. What property can you mention of that description?—Property belonging to a client at Brixton; property being brought into building purposes.

57. What is his plan of dealing with the builder?—Where there is an old building and it interferes with the general building scheme it is pulled down.

58. You pull down the old buildings and lay out the ground?—Yes.

59. Do you find in a place like Brixton there is such a demand as pays you for that?—Yes.

60. As a manager of property, have you under you much rack-rental house property?—Not much.

61. Some?—I have some.

62. Do you find that very troublesome?—Very troublesome, and attended with great loss.

63. And many outgoings?—Yes; it is subject to great losses by dishonest tenants, and the impossibility of providing against dishonest tenants.

64. If your client was under some disability, which prevented him pulling those old houses down and laying them out, would it be a serious loss to him?—It would.

65. I may presume, on this property in Paddington, when you have the leases coming near to their termination, they will be renewed, and not become rack-rental property?—If the leases are to be renewed before they actually run out the renewals must be the subject of a new Act for the purpose; there are many leases that are now within twenty-five years of falling in.

66. Leases granted in an early period?—Yes; leases granted in an earlier period for shorter terms.

67. There is an impression abroad that the London builders can build with the greatest possible accuracy up to any term: if you give them a lease for forty years, they build you a house that will last forty years; if you give a lease for sixty they build one that will last sixty, and if a lease for ninety-nine, that they can calculate accurately, and build it to last ninety-nine, and so that you gain nothing by giving a long lease; is that your opinion?—I am not aware that the builders can make so nice a calculation.

68. Is it a fact that they build with a view to the duration of their leases, do you think?—Not at all; there are some builders who build very much better than others. There are very many builders on the Paddington estate, who have built houses as well as it

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is possible to build them. It is not possible to build better houses than some of the houses on the Paddington Estate.

69. Do you make stipulations as to the mode they shall build their houses?—Yes, we do; they are built under the supervision of the surveyor of the estate, and controlled by the General Building Act.

70. Have you ever formed a calculation of what would be the amount on the rack rent of these houses as the leases fall in?—No, I have never made a calculation.

71. How many houses are there?—There are more than 2,000 houses. I should think it ought to realize something like 300,000*l.* a year.

72. On the houses already built?—I mean having regard to the prospective improvement of the estate, and the falling-in of leases 100 years hence.

73. Would it make much difference whether you let these houses for ninety-nine years or a perpetuity? Would the builder give much more in the one case than the other?—I do not think he would.

74. Do you suppose an individual would?—Many individuals would certainly prefer a freehold.

75. But the builder does not?—The builder does not.

Mr. H. A. Hunt.

Mr. Henry Arthur Hunt examined.

76. Do you manage as surveyor the dean and chapter's property in Westminster?—Yes.

77. How long have you been surveyor?—Eight years.

78. What is the extent of the dean and chapter's property there; is it very large?—It is very large. I cannot give you the whole extent of their property; it comes under my notice at intervals.

79. You do not know the number of houses there are?—No.

80. Is it in uncertain quantities?—Yes.

81. Whereabouts does it chiefly lie?—There is a great deal of it in Westminster.

82. On this side of the water?—Yes; none on the other side.

83. Is Great George Street part?—Yes; part of Great George Street.

84. Any in the Park?—None in the Park, except Prince's Court; that belongs to the dean and chapter.

85. It runs up towards the Penitentiary, does it not?—Yes. It runs up to Vincent Square and Regency Street, which abuts at one portion on the Penitentiary. We have some property also in the City.

86. Are these houses houses that have been built under a local Act of Parliament or under old leases, and are now under renewals?—The Tothill Fields Estate has been built on forty years leases, granted originally from the dean and chapter.

87. These are now out on lease, I suppose?—They have been renewed from time to time; some have and some have not.

88. Upon what terms do you renew?—We have different classes of property. We have a great deal of property in Park Lane, Seymour Place, and Stanhope Street, and in that vicinity; we have also property in Cockspur Street and Warwick Street, and other less valuable property. We renew the Westminster property, which is more fluctuating in its value, on one table, and upon a different class of property we renew on another table.

89. What do you put the better class at?—On the six and a half per cent. table.

90. And the other?—Eight per cent.

91. Am I right in supposing that those excellent houses in Seymour Place and Stanhope Street were built on a forty years lease?—Yes.

92. Are they renewable at the end of fourteen years?—Yes; Dorchester House was built upon such a lease.

93. Is that held under you?—We have just sold it.

94. Was Dorchester House built on a forty years lease?—Yes; I know the dean and chapter granted a forty years lease. I cannot say it was built on a forty years lease; but I believe it was.

95. You are not aware of any early Private Act which authorized the dean and chapter to let leases above forty years?—No.

96. Have you any idea when those houses in Seymour Street and Stanhope Street were built?—Judging from the general appearance I should say they had been built perhaps seventy or eighty years, or more.

97. Do

97. Do you think under any circumstances builders in the present day on a forty years term would build the same class of houses?—My impression is that they would not. The amount, however, of the reserved rent would determine that.

98. Would they build houses like those low houses at the back of Westminster on a forty years lease?—They have done it, and are doing it still, largely.

99. If you had the power of pulling down those houses at Westminster, and laying out the land for better streets, do you think there would be a demand that would pay you for that operation?—That is a large question. I can scarcely venture to give any opinion about this, because it would be a matter of calculation entirely.

100. Have you never made such a calculation?—No, never.

101. A gentleman has just said, in Brixton they go through the operation of pulling down masses of old and inferior buildings, and they lay the ground out for building, and they find persons ready to come and pay rents?—If you were to buy up all those houses, and pull them down, and let the ground out for building a larger and better class of property, I can take on myself to say at once that that would not be remunerative to the dean and chapter. For instance, that large Westminster Improvement, and the new street which is now being formed, is done at a loss; that is to say, it is done at a loss to somebody; the Government provided 50,000*l.* towards it, the parish allocated the rates to assist the projectors as individuals. Again, all the new streets that have been made in the metropolis have been made at a great cost to the country. And further, the dean and chapter themselves projected great improvements in the neighbourhood of Westminster Abbey; when I had the honour of being appointed to the office of surveyor I made a calculation of the cost of what they proposed to do, and how the funds were to be provided to do it, and what would be the remuneration to them; I found, to carry that out would be a very great and serious loss to the chapter, and therefore it was stopped on my advice.

102. Do you think, or do you not think, that supposing ninety-nine years leases were offered for that district it would be to the interest of builders, and that you would find persons who would take down those houses and build better?—I think not, the interest in the existing leases being considered.

103. Not on a ninety-nine years lease?—No; my calculations have all been based, and the remarks I made with reference to the dean and chapter's improvement, as giving a ninety-nine years lease. I made an estimate for the dean and chapter, showing what I considered to be the probable receipts from the new street, and what it would cost them to buy up all the property to make that new street; I found it would be a very serious loss. I believe that is matter of fact to which every surveyor will testify.

104. Are there any parts of the property of the dean and chapter built upon under Local Acts?—I do not know of any.

105. Have the buildings on the property of the Dean and Chapter of Canterbury been built under a Building Act?—Yes, they have an Act of Parliament enabling them to do so.

106. Can you give us what the effect of that Act of Parliament is?—Yes.

107. What is the nature of the Act under which they are building considerably now at Walworth?—The nature of the Act of Parliament is to this effect: I think during the latter part of the last century one of the tenants held a large tract of land there upon a twenty-one years lease, and it came into the market as building ground to a certain extent, and at that time an Act of Parliament was passed enabling the Dean and Chapter of Canterbury to grant leases conjointly with the tenants of this large lease, each being a party to the lease to the takers, and each taking a moiety of the ground rent, with a proviso in the Act of Parliament, that at every seven years the lessee should pay a fine of a year and a half upon those ground rents of ninety-nine years, and also upon the other part of the ground that was not built upon as for agricultural or other purposes.

108. Do the dean and chapter take a fine on the improved rents?—They take half the ground rent as it accrues; if a frontage is let for 40*l.* a year they take 20*l.*, and the lessee pays the fine on the other half.

109. Suppose the ground rent was not paid, what is the remedy?—There is a power of re-entry.

110. And the dean and chapter are bound to renew?—Yes; and the lessees are also bound.

111. Reciprocal obligations?—Yes.

112. How do you enforce the obligation on the lessees part to renew?—By re-entry, or by bringing an action for the money if they do not pay the fine.

113. How is the fine settled?—It is settled by valuation. The ground let on building leases speaks for itself. A valuation is made of the residue of the property not built upon. The Surrey Zoological Gardens is part of that not on ninety-nine years lease.

114. Do you value, or have you a joint valuation?—I have only lately been appointed surveyor to the Dean and Chapter of Canterbury; but the plan has been, I believe, for each party to send a surveyor, and to assess the value.

115. Suppose

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115. Suppose they disagree?—Then they refer it to arbitration; that has been the case in one or two instances.

116. Do they ever agree?—No, I think not.

117. Are you aware how they proceed to elect an umpire? —No; I know how I should.

118. Did you ever hear that they tossed up?—No; such has not been my practice.

119. How do you think they should elect an umpire?—If I met the surveyor to the lessee, and we could not agree, I should request him to favour me with four or five names, and as a respectable man he would take care and put down four or five names out of which I could choose, or I should present him with a list for him to select one. It is not so done at Westminster; there the fine is arbitrary on the part of the dean and chapter.

120. You fix it yourself?—The annual value is fixed by me, and the table on which the fine is to be set. At Canterbury they have one large lease, and there is only one lessee to deal with; there it is a convenient course, but at Westminster, where we have so many leases, if we were once to open the door to arbitration as to our fines we should have an arbitration on every fine.

121. When you say at Canterbury, on those estates, they admit another surveyor to join with their own, are you speaking of what you suppose to be their custom or from what you have reason to know?—From what I understood from Mr. Finch the auditor, and I think also there is a power in the Act to appoint arbitrators.

122. This system of arbitration applies to one single great lease?—Yes.

123. You do not think it would be practicable if applied to a number of leases?—I think not.

124. The Dean and Chapter of Canterbury have a good deal of property towards Vauxhall?—Yes; those are on long leases. There it would be quite different.

125. The other arrangement only refers to Walworth and Newington?—Yes, under that Act.

126. Supposing you were the sole owner of this property yourself, and you had to manage it for your own interest; as to these small bad houses, in what way would you set to work? —To do what?

127. To make the most of it?—I do not know that I should pursue any different plan from that adopted now. I should let it out on lease.

128. Should you go on fining?—No, perhaps not.

129. You would let the leases drop, perhaps?—No; I should probably grant a concurrent lease for an extended term.

130. You would give up the system of taking fines, and let at rack rents?—That would depend entirely on what I was going to do with my property after my death, and what I had to maintain my family upon in the meantime.

131. Supposing you were in comfortable circumstances, and capital was no great matter of consideration with you, what would you do to make the most of your property for your children and grand-children, or for the reversioners?—It is clear that it would be for the benefit of my children and grand-children to let it run out, and let them have the total value of the property.

132. Even if you were to borrow money in the meantime, would it be worth while for your children,—supposing you were managing this for your children,—in the meantime they must live; they can only do that by some means, and those means you were to borrow, —would it be worth while to borrow money at a certain interest in order to enable you to let the leases run out?—That is matter of calculation. In an off-hand way like this I can hardly be prepared to say.

133. You are not prepared to say it would not?—I am not prepared to say one way or the other.

134. It would depend on the rate of interest you borrowed as compared with the rate of interest you allowed your tenants?—Yes, that at least would be one element in the calculation.

135. With reference to the estate you manage belonging to the Dean and Chapter of Westminster, I think you said the inferior houses you renew at a rate of interest of eight per cent.?—Yes.

136. How do you get at the fineable value?—I find the letable value of the property, and then I make those deductions which I know are necessary to arrive at the net annual value.

137. What deductions?—Deductions for repairs, deductions for insurance, and I make an allowance of a per-centage for the loss of tenants and the expense of collection.

138. You are now supposing you are dealing with a party who has sub-lessees, or who underlets to others?—No.

139. You

139. You spoke of loss of tenants?—Whether I am treating with a sub-lessee or my own lessee it is the same thing. I first ascertain the value of the house; if it lets for 60*l.* a year, and I am satisfied that that is the value of it, I then consider how much there is to pay out of it. Next year the landlord may not get 30*l.*, because the man may run away a quarter or two in arrear,—something of that kind; then I must repair it, and all those contingencies make large deductions from the gross rent.

140. Have you much or any house property let at rack rent under your management?—None, except a few houses in Westminster; perhaps three or four.

141. No great quantity?—No. There is a large copyhold property at Kensington, of which the Dean and Chapter of Westminster are lords of the manor; and we have also considerable freehold property at Bayswater and at Hampstead upon lives.

142. You have no house property at rack rent except a few houses?—No.

143. As to these houses out at lease, particularly inferior houses, do you find a difficulty in making the tenants repair and keep them in good order?—I have not found much difficulty since I have been in office. I have taken some pains to improve the character of the estate. If I find a house very much decayed, and past repair, and the lessee comes to me for a renewal, I recommend the dean and chapter not to renew, but to grant him a new lease on condition that he pulls the house down and rebuilds it.

144. You find they are willing to do that?—I have found that to be the case in several instances.

145. What length of term do you give him in that new lease?—Forty years.

146. Only forty?—No; we have never granted a lease above forty years.

147. They have the power now?—Yes; and I have been in treaty with the tenants of the life leases to turn them into ninety-nine years, particularly at Hampstead, which is a very desirable place for building. I am in treaty now with a gentleman who has a lease for lives; the oldest life is seventy-five, the second life is fifty-four, and the third life fifty-one; of course when that life, seventy-five, drops, he will want another added. I think I shall be prepared to recommend the dean and chapter to pause before they do that, because it would be prolonging in his term a large tract of land which he can only use for agricultural purposes, and which might be speedily applied to building purposes; and I am in treaty now with him to turn that lease for lives, as it now exists, into one for ninety-nine years.

148. How could you do that without an Act of Parliament?—I think we may take a surrender. I think the Act of Parliament will permit us to do that,—what is called the Bishop of London's Act. I think I can give you another case: At Bellesize, near Hampstead, forty-five or fifty acres, and a large house, let to a gentleman on lease for three lives, which are equal to an unexpired term of about twenty-four years; the lives are worth about that. I calculate the ground for building would let at 40*l.* or 50*l.* an acre per annum. I valued the dean and chapter's interest for ninety-nine years at 1,000*l.* a year; it appears that he thought that was a great deal, and referred to his surveyor, with whom I had a conference, and if I had taken 800*l.* a year I think it very probable he would have closed with me. I felt the dean and chapter were entitled to 1,000*l.*, and the negotiation went off.

149. You would have granted a ninety-nine years lease, and he building?—He stipulated to build; that was a condition.

150. The other case of the three lives; a ninety-nine years term you think would enable them to build?—Yes; certainly.

151. There are no tables, I think, for showing the rate and manner in which leases for lives can properly be turned into leases for years, are there?—No; but it is a very easy process.

152. Suppose there was a large tract of land belonging to the Dean and Chapter of Canterbury, and it were a question about building; the one proposal was to build for ninety-nine years, and the other on the fee simple. What should you recommend?—A freehold is of course the best for a builder, and a ninety-nine years the best for the dean and chapter.

153. The best for the dean and chapter; but suppose there were two propositions, one for selling the land in perpetuity and the other for a lease of ninety-nine years?—Practically there is very little difference in present value.

154. Not to the builders?—Not to the builders.

155. But to the dean and chapter?—Suppose I had a ground rent of 40*l.* a year, and I had got ninety-nine years interest in it, I should charge almost, if not quite, as many years purchase for it as if I were selling the fee simple.

156. It would be an advantage upon the whole to the church to have it for ninety-nine years?—Yes.

157. The difference would be very considerable to a permanent body that did not die, like deans and chapters, at the end of ninety-nine years?—There is no doubt about that.

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158. It is much better for the church to grant for ninety-nine years, as it appears, as far as your experience goes, the grant of a lease for ninety-nine years brings as much present profit as the grant of a lease in perpetuity?—Yes; that is so.

159. Do the Dean and Chapter of Westminster collect the rents from these houses pretty easily?—There are only small reserved rents to collect, which the tenants bring to the receiver's office. If we had to collect the rack rents of our property we should never get them.

160. Supposing the Church wanted, for particular purposes, to sell property, in order to have money for some object, should you think that it was a desirable part of their property to dispose of; house property more than land, or any other kind?—If I were obliged to choose which property I should dispose of, I should say house property. Land is certainly better to hold than houses, one is perishable and the other is imperishable.

161. Only on that ground?—Only on that ground; there would be always a difficulty in collecting rack rents; we should run more risk than a private individual would.

162. All deans and chapters have many houses on which fines are renewed on the rack rents every seven years or every fourteen years?—Yes.

163. Do you find much difficulty in getting those renewals, or getting paid?—A great many of them object.

164. But they do pay?—Some of them do not; but then we never reduce a fine. I do not suppose since I have been surveyor to the Dean and Chapter of Westminster that we have reduced three fines; I have gone on the principle of setting the fines on what I consider to be a fair and honest valuation. Suppose the fine is 500*l.*, if you bring us 480*l.* we will not take it; it goes off, as we never make a reduction. The dean and chapter, having confidence in their officer, invariably abide by what he recommends, and therefore they never reduce the fine. Many fines the dean and chapter have lost in consequence, but if we were once to begin to reduce our fines we should have everybody applying.

165. You have as much trouble of renewing a fine on a house of 120*l.* or 60*l.* a year as you would on an estate?—No, I think not; they bring the money, although often they demur to the amount of the fine.

166. Is there any property belonging to the dean and chapter under your management, besides houses, which is held at rack rent by your tenants?—We have no property held at rack rent.

167. None at all?—No, excepting three or four in Westminster.

168. Neither land nor houses?—No, not that I am aware of.

169. Your fine is estimated upon the rack rent?—Yes.

170. I wish to draw your attention to the inconvenience or difficulty of management of rack rent property by a public body?—Yes, a great difficulty I should conceive it.

171. The tenure of the lands which you have to manage of the dean and chapter, or of houses, are either on leases for lives or for forty years?—Yes.

172. You have no other?—No.

173. You consider with respect to Church property it is better it should be under beneficial leases than under rack rent for the Church?—Decidedly so.

174. You have none at rack rent?—None. If you have rack-rented property a man will come and say, "I am very sorry I cannot pay this, I wish you would let me off half "of it;" if you do not, you must be held up to odium. When I say there are no rack rents, I should mention there are three or four houses which we have bought for the purpose of improvement in Westminster, where we projected the improvement ourselves, we have been obliged to keep at rack rents, but we get little or no rent, two being at this time shut up.

Thursday, 2d March 1849.

C. Hodgson, Esq.

2d March 1849.

CHRISTOPHER HODGSON Esq. examined.

175. WHAT position do you occupy in connexion with the management of ecclesiastical estates?—I am receiver general to the Archbishop of Canterbury, auditor to the Bishop of London, and chapter clerk to the Dean and Chapter of Saint Paul's. I have the management of the estates and renewals.

176. Do you set the fines?—Yes.

177. What is the process by which you arrive at the fines?—I had better give them separately. I will speak of the see of Canterbury first. The archbishop employs a surveyor

surveyor to ascertain the gross annual value, and from that gross annual value certain deductions are made for outgoings; in fact, with regard to leases for twenty-one years and for three lives all the outgoings are deducted so as to reduce it to the net yearly or fineable value.

178. What are the outgoings which you admit?—First, the reserved rent; the redeemed land tax, if it is redeemed, as it generally is; the repairs of the chancel; also the parochial and parliamentary assessments and cost of collection when tithe rent-charges are included in the lease; and in fact every thing that goes out of the lessee's pocket that affects the land, &c. so as to reduce the gross yearly value to a net sum.

179. Repairs of buildings?—The surveyors, in forming their valuations, make a certain allowance for repairs and insurance from fire, according to the nature of the property.

180. Then, having arrived by this process at a net annual value, what is the next step?—Then it is multiplied by two for adding seven years expired in a twenty-one years lease.

181. You do not deduct the income tax, do you?—Certainly not.

182. You multiply by two, and the fine is two years?—That is two years of the net rent, which is the fine for seven years expired in a lease for twenty-one years.

183. Is not that what they mean by going on the seven per cent. tables?—It is by the seven per cent. table, as given in Inwood's Book of Tables.

184. When you say by a seven per cent. table, what do you mean?—It is allowing the lessee to make seven per cent. interest of his money paid for the renewal, which is in fact the purchase of a reversion of seven years, after fourteen.

185. Do you pursue this process equally with regard to houses and land?—I will come to that afterwards. I was going next (as it relates to the same kind of property) to estates on three lives; there, instead of multiplying by two, whether one life or two lives are gone it does not signify, the calculation is made upon the five per cent. table in all cases of landed property and of rent-charges.

186. You go on the plan of allowing the lessee to make five and not seven per cent.?—Yes; not seven, but five.

187. That on leases for lives?—Yes.

188. Is that on every life put in?—Whether for one or two lives the five per cent. table is used.

189. On what principle do you allow a lower rate of per-centage upon a lease running on lives than that which you allow for one running for a term of years; is it more than custom?—I will explain it as well as I can. I never heard any reason given for it at all. It must appear to be an extraordinary thing to anybody who understands business. Very few, comparatively, of the leases are for lives in regard to the property that I have the management of; they are chiefly for years. I think it is probable that a smaller amount may have been agreed to with regard to leases for years, to make the renewal of them more certain; that is, to make the income come in more regularly, and to prevent the lessees objecting. I should think that must be the reason.

190. Do you take into account the ages both of lives in existence and of the life to be put in?—It is presumed that the lessees will select the best possible life; the calculation is made upon that ground, and the lessee is dealt with on the presumption that he will select the best possible life.

191. Do you inquire at all into the health of the existing lives?—I invariably have a certificate immediately before the lease is granted.

192. Of life and health?—Of life and health.

193. Do you take into consideration at all what I may call dormant value of the land, besides the annual value at the time and its capabilities?—Yes, certainly; when I know the land is likely to be used for building purposes. It so happens that the land, of which I have the management, has been pretty well all built over by special acts of parliament; but I have made it an element in the calculation of fines, when I have known, or the surveyor has known, land to be capable of special improvement.

194. Have you any agreement at all in regard to future improvements as to the charge that may be made against the lessee improving?—No covenants of any kind whatever, except the common covenant to repair, are contained in the lease. The covenants are, I believe, the same as have been from the time of Henry the Eighth.

195. Do the lessees never come, and say, "I am going to lay out so much money on this "if you will let me off at a lower fine"?—Such applications have occurred, but much more frequently after the lessees have laid out their money, when at the next renewal they have said, "I have done so and so, and therefore reduce my fine."

196. And is that plea admitted?—Very seldom, and only in a degree. I have certainly known it operate when persons have been very liberal, and they in consequence have been allowed something for their outlay, which has satisfied them.

197. Do

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197. Do I understand on leases for lives you take advantage of any improvement on the first renewal, and in the case of leases for terms of years you also take advantage of it?—I have had so few leases for lives that I can scarcely answer the question. I do not think it has occurred; but it would apply to one as well as the other.

198. In general the total advantage of any improvement is taken upon each renewal?—Yes.

199. Unless the circumstances are very extraordinary?—Yes.

200. That must operate to a certain degree to discourage improvement on a large scale?—No, I cannot say that. There has been what I should call an equitable allowance made when a case has been properly made out. I have done every thing to encourage improvement, and those I have acted for have done so. We have always pointed out when building leases could be granted. The Archbishop of Canterbury has power under a special act to grant building leases of all the ground that was considered to be fit to be built upon. The archbishop has accordingly granted many building leases, and has a large rental from the same.

201. Have you ever applications from tenants, stating they are not inclined to lay out money in draining to a considerable extent, or erecting farm-buildings, if any allowance would be made?—No. For farm-buildings rough timber is allowed to the lessees.

202. For the repairs?—Yes.

203. You do not find they erect new farm-buildings for that?—We have gone almost as far as to allow them all that was necessary in case of a fine when they have not been sufficiently insured. In fact, I should say in all the instances that have come under my knowledge that the lessees have been kindly treated in this respect.

204. What tables of mortality do you refer to in calculating the value of the lives?—Inwood's Tables.

205. Do you never refer to an actuary?—Yes; but I am able to do it almost as well myself. Inwood's book answers the purpose as nearly as possible. However, in cases of a special nature of leases for lives I am in the habit of referring to some actuary.

206. Have you found any different disposition of late shown by lessees as to renewals?—Not the slightest.

207. Are they as inclined to renew on the same terms, and as willingly, as heretofore?—I should say certainly. A very peculiar case lately occurred of a lessee declining to renew, and which I was astonished at; he had an offer on reasonable terms to renew seven years expired in a lease for twenty-one years of tithe rent-charges; he declined it, thinking it improper for tithes to be in lay hands.

208. And he declined to renew?—Yes, he did.

209. He wished the lease to run out?—Yes, and to go to the Church.

210. There are in Kent an immense number of such leases of tithe rent-charge in the hands of the archbishop, to the amount of 30,000*l.* a year. Suppose it was proposed to let those leases run out, funds being provided to pay the fines from any other source, would that create discontent, do you think, among the Kentish people?—I should think there would be the greatest discontent, and not the slightest reason for doing it more than on leases of land. I have not greater difficulty in renewing leases of tithe rent-charges there than of lands; they are subject to all the same settlements, mortgages, and other charges that the leases of lands are.

211. There would be good reason for it, with a view to the interest of the Church, if it could be done, and it would be a very profitable thing, looking to the present marketable rate of interest. I want to know whether you find the same attachment to leases for rent-charges that you find for leases for land?—I find lessees just as ready to renew the one as the other.

212. Are they incumbered in the same way with settlements and mortgages?—Yes.

213. You have had one case of a gentleman who thought it wicked to hold such leases?—Yes; that is, I believe, one of the opinions of the present day; and I should state that there is a society formed to redeem tithes.

214. You have not yet run out any of those tithe rent-charge leases, have you?—Not any.

215. What is the advantage you consider to the holder of a tithe rent-charge?—The fact of having had it in his possession for a length of time is one thing——.

216. We are not speaking of the estate but the rent-charge, and as distinct from the estate. What is the advantage to the holder of a rent-charge over that of any other?—I am speaking of the lease, and I call that the estate, having had that property for a long time, and, probably, the advantage of having it renewed upon the seven per cent. table. I have not had any difficulty in regard to the renewal of such leases except in the case I spoke of.

217. Among the deductions you make for outgoings from the rent-charge, is the expense of collecting included?—Five per cent. is usually the rate allowed, because it is supposed the lessee expends that in collection and in losses.

218. Is not the desirableness of a lease of the tithe rent-charge a very different thing from the desirableness of a lease of tithes, seeing that in Kent, where they principally deal with these matters, a great number of the persons who hold the leases of tithes were the owners of lands in the parish in which the tithes arose; and if they had not had the lease, and the lease had been in other hands, they would have been subjected to have the tithe taken in kind, and the amount varying, which cannot be the case with a tithe rent-charge?—I can only state what the effect is upon renewals. I am not possessor of rent-charges. I cannot see why lessees should like one to run out more than another. I can only say I find the same facility of renewing leases of rent-charge as of land.

219. You have become also aware that they are as much involved in family settlement as landed property?—Quite so.

220. I was not doubting the disposition to renew would be the same, but I want to know whether there would be the same hardship in refusing to renew a lease for tithe rent-charge as a lease for tithes?—You are altering my position. I have come here as a person acquainted with renewals of leases, and things of that kind.

221. Do you find the same disposition in a person who has had a lease for a long time to go on renewing, whether one description or the other?—Yes.

222. Have you any house property on rack rent passing through your hands?—No property at rack rent at all, except the archbishop's estate at Addington, namely, his demesne, and the ancient Croydon Park Estate.

223. From your experience in these matters, should you not consider the management of rack-rental property was very troublesome indeed for the Church?—I should say rack-rental property is the worst they could possibly have, with respect to trouble.

224. Has the very little you have had to do with it given a certain amount of trouble?—Yes. Since the late archbishop died, in making arrangements with a new tenant of a farm at Addington, and with respect to repairs and other things, I have experienced considerable trouble.

225. Even a large domain you think troublesome at rack rent?—Yes. I would not wish to have the management of rack-rental property of considerable extent.

226. What is the amount of domain there?—There is the park, which is about 400 acres of land, and about 600 acres out of the park.

227. In farm?—Yes.

228. Do you manage some house property of the Bishop of Chichester in Chancery Lane?—I did formerly.

229. Do you think additional powers of leasing would be useful to get that property out of the state it is in?—I have always thought that there would be some public measure which would induce the bishop to require the promoters of it to obtain powers with respect to that property. I have always looked forward to that; but I do not know myself whether it does not produce more money now to the bishop than it would do by a different course, unless there was some public improvement to take place. The next property I will speak to is house property. In the case of house property, the reserved rent only is deducted, and the fine is calculated for seven years at a year and a half, that is on the gross rent, which I consider is nearly equal to one year and three quarters of the net.

230. Is that nine per cent.?—Yes.

231. You have covenants that buildings should be kept in repair?—Yes.

232. Is the house property you are now alluding to let on a forty years lease?—Not when we take one year and a half. I am speaking now of leases of twenty-one years. There is so little house property on leases for three lives, it is not worth while mentioning any thing about them; there are not above one or two cases.

233. Have you any forty years leases?—Yes; for the Dean and Chapter of Saint Paul's. Bishops have not the power to grant leases for forty years, except the Bishop of London, who has it by a special Act of Parliament as to the site of London House near Saint Paul's.

234. Are they renewed every fourteen years?—They are renewed every fourteen years.

235. What is the fine you take on fourteen years?—We vary according to the sort of property, we divide them into classes. I should say it is from a year and a half to a year and a quarter, that is, with regard to the Bishop of London's forty years leases; the Dean and Chapter of Saint Paul's do not take more than a year and a quarter, that is the highest.

236. Does any of the property leased for forty years consist of good houses?—Yes, excellent. I would rather have some of those houses than any other property. There are some houses in Saint Paul's Churchyard and on Ludgate Hill, and some other such like situations, the best kind of property. With regard to the Bishop of London's property in land and rent-charges, his leases are renewed exactly in the same way as the Archbishop of Canterbury.

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237. Are the out-goings in respect of rent-charges actually ascertained?—Yes, they are ascertained; we know them exactly. With respect to renewals by the Dean and Chapter of Saint Paul's, they, for the renewal of seven years expired in leases for twenty-one years, take one year and a half of the gross value, deducting the reserved rent, which I reckon to be nearly equal to one year and three quarters of the net; and fines for the renewal of their leases for three lives are calculated exactly the same as the Archbishop of Canterbury's and the Bishop of London's by the five per cent. table.

238. That is for the rent-charges?—For both rent-charges and land.

239. Are any of the rent-charges on the Bishop of London's property, or any that you have the management of, let for three lives?—Yes.

240. In renewing those do you make a difference in the rate of interest you allow the lessees?—No.

241. Both the same?—Yes; five per cent.

242. That is something certain?—Yes.

243. Is it not surprising that people should renew rent-charges on those terms?—No. I have not had the slightest difficulty; and I could get as solvent a man as any in London to go and receive the rent-charges and pay them regularly, if he were allowed a reasonable compensation for it.

244. You have said the form of the lease has been the same, continued from time immemorial, and that the covenants were only the ordinary covenants; what are the covenants in the leases?—The covenants are for the payment of rent and outgoings for repairs in cases where there are buildings, and so forth, and on the part of the landlord for quiet enjoyment. The lessees are not restricted by special covenants.

245. Is there any thing about not committing waste?—No; the law of the land prevents that.

246. You have no particular covenant with regard to culture at all?—No; no farming covenant at all.

247. Have you much timber upon any estate within your management?—There is only sufficient timber for repairs of the buildings in the dean and chapter and Bishop of London's estate, with a very little exception indeed; the expense of management meets the sum received for timber as nearly as possible. With regard to the Archbishop of Canterbury, he has several woods in the county of Kent, and they are extremely well managed.

248. In the case of the Archbishop of Canterbury, he keeps the underwood as well as the timber?—Yes.

249. Do you keep the underwood of all the archbishop's woods?—Yes.

250. By keeping it you mean you do not let it?—It is not let.

251. You keep it in hand?—Yes; and I am proud to say the archbishop's woods are in excellent condition.

252. In regard to surveyors, have you one surveyor, or do you employ surveyors in different parts of the country, according to the country in which the property may be?—The properties all lie in the home counties. Those of the Bishop of London and the Dean and Chapter of Saint Paul's are in Hertfordshire, Essex, and Middlesex, and there is only one surveyor for those; but there is a separate one for houses. That is the case with all three of the properties; they have all separate house surveyors. But we do not require them in different counties. The Dean and Chapter of Saint Paul's have only two estates in Kent, and the same surveyor, I think, attends to them as to their estates elsewhere.

253. Should you see any difficulty or objection in giving larger powers of making agreements for improvements with the tenants under ecclesiastical property?—If there was any land that my employers had capable of improvements, arrangements might be made with the lessees immediately under the Act of Parliament which we call the Bishop of London's Act. This has been done in some instances.

254. What are the powers of that Act?—The power of granting leases for ninety-nine years. And I should explain that when a lessee desires to convert a lease for years or lives to a lease for ninety-nine years for building purposes, a valuation is taken of what would be the proper rent for the whole term of ninety-nine years for the land in question; a valuation is also made of the lessee's interest in the existing lease; the value of that interest is deducted from the building rent, and then the landlord gets the remainder as the reserved rent in the building lease. A clause was introduced at my suggestion in the Act, that the surrender of a lease for lives or years previous to the grant of a lease for a long term should not be deemed a fine, premium, or foregift. This provision enables the lessor to enter into an agreement with his lessee, so that improvements may immediately take place, and affords to both their proportionate share of advantage to arise from the measure, so as to encourage the lessee to enter into a building speculation.

255. That is a general provision?—Yes, a general provision.

256. Available to all ecclesiastical bodies?—Yes.

257. And to all sorts of improvements?—I think it only relates to building, and mines.

258. At present, supposing an estate to be under lease for lives, the lessor is the archbishop, and the lessee who holds the estate cannot sell that estate and invest the money, or exchange it for another estate?—No. I think, however, there is power now, under the Ecclesiastical Commissioners Acts, for bishops and deans and chapters to make exchanges in certain cases; but I, not having any thing to do with the Ecclesiastical Commission, cannot say much about that; I refer you to their Acts. Until these Acts passed there was no power; but occasionally, when a desirable exchange has been proposed, a private Act of Parliament for effecting the same has been obtained.

259. It would be an important exchange to pay for an Act of Parliament, would it not?—Yes. I do not know, upon either of the three properties I have the management of, where I could suggest an improvement by building; every thing is so closed up. As for instance, the houses in London are in different streets, they cannot well be improved. Holders of houses on forty years leases keep them in good order, and some rebuild them. Some of the houses in Saint Paul's Churchyard, fitted up most expensively with large plate glass windows, belong to ecclesiastical bodies; it is evident the lessees must have gone to most exorbitant expense in the embellishment of those houses.

260. With regard to land let on ninety-nine years lease, do you contemplate the probability of their falling into the general system of renewing?—No, they are for the present put entirely out of sight; they have been granted now within the last thirty years, and there are sixty-nine years to run. I suppose, however, that a new lease might be granted at the end of the time for twenty-one years or forty years (as the case may be) reserving the proper rent.

261. Do you get more for a ninety-nine years lease, and by how much, than you do for a forty years lease?—If there was a large plot of ground for building upon, people would not take it upon a forty years lease. The Act enabling deans and chapters to grant leases for forty years only applies to houses in cities and great towns; it was an Act of Charles the Second, and did not contemplate building leases, in my opinion. It was probably only for keeping buildings in good repair, and making it worth the while of the lessees to do so.

262. You do not imagine that a shorter time than ninety-nine years would be sufficient to induce people to build?—In some places where inferior houses are about to be built, a landlord would not grant leases for more than sixty or seventy years, but when there is to be a considerable outlay of money, and substantial buildings are to be put on the land, it is best to contract at once for a ninety-nine years lease, as was done in the case of the Paddington estate. I am one of the trustees of that estate, and there I know leases are granted for ninety-nine years.

263. You say in London parties will not build good houses on a shorter tenure than ninety-nine years?—My employers have no ground to build upon in London.

264. With regard to the Bishop of London's estate on the Paddington side, what do you say as to that?—That I may almost call out of London; that is quite a new feature; but there builders would not have entered into building contracts on a forty years lease, they required ninety-nine years leases.

265. Are you aware that in the north and in Liverpool they invest money to any extent on seventy-five years leases renewable every twenty-five years?—I am not aware of that; but in the city of London, or any place where there were large warehouses to be built, or shops in conspicuous places, I have no doubt if there was land to build houses on, persons would be found willing to take land there on a less term than ninety-nine years; I think it is exceedingly probable, and that is squaring it with Liverpool; but in the outskirts of London, where there is a great deal of competition, that would not be the case. As between the Grosvenor estate at Pimlico and the Bishop of London's estate at Paddington, I believe it was half a guinea a foot that carried the day, and caused the former estate to be built on before the latter. Many houses were built on the banks of the Regent's Canal on twenty-one years leases, which houses would not last above twenty-one years in all probability.

266. Will you state the number of leases under the Canterbury estate?—There are about 199 of estates for twenty-one years, eighty-two building leases for long terms, twenty-two leases for lives, ten leases of houses at Lambeth, fifteen of leases at Canterbury, twenty-five leases of houses at Dover, ten leases of houses at other places.

267. That is 363 leases altogether?—Yes.

268. Are they pretty much in value proportionate to their numbers, do you imagine?—Not at all; it is no guide.

269. The number of leases would be no guide to the amount of income derived under the different sources?—None whatever.

270. Was that including the tithe leases?—Yes; every kind of lease estate for twenty-one years and for lives are included in it.

271. Under the general term of estate?—Yes. In the town of Deal there are 461 houses and upon twenty-one years leases, exclusive of the leases before mentioned.

272. Will you state the number of leases under the Bishop of London's estate?—There are three leases for three lives, and fourteen leases for twenty-one years, and thirty-six leases

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leases for forty years, of houses in the city of London. There are forty leases for lives, and eight leases for twenty-one years, of estates in Fulham.

273. Does each lease comprise only one dwelling?—Sometimes more, but in general not many. In Middlesex, exclusive of Fulham, there are twenty-three leases of estates for three lives, and twenty-six leases for twenty-one years. In Essex there are nine leases of estates for three lives, and seven leases for twenty-one years; in Hertfordshire, twenty-five leases of estates for three lives, and nine leases for twenty-one years.

274. Are there many manors belonging to these sees and to the dean and chapter?—Yes; but the courts and royalties are reserved out of the leases, and the courts are held by the respective stewards of the two sees, and of the dean and chapter. As to the number of leases of the Dean and Chapter of Saint Paul's, there are seventy-one leases for twenty-one years, about 104 leases for forty years, and there are fifteen leases for lives, and there are thirteen leases for long terms.

275. How long have you been in the management of these different properties?—As regards the Archbishop of Canterbury's property, twenty years; the Bishop of London's twenty-six years; and the Dean and Chapter of Saint Paul's property forty-three years.

276. Are the fines which are now taken of greater or less number of years purchase than when you first came?—All greater, unless with very slight exceptions.

277. What would be the greatest range of difference between what has been and what is?—I should say from three quarters to half a year.

278. Does that arise from the increased annual value?—No. It arises simply from the will of the lessor to make the increase in the number of years purchase.

279. The lessor refuses to let except at a higher fine?—The way to arrive at the fact is to know what the practice was. Archbishop Howley took a year and a half for a seven years renewal; Archbishop Sumner takes two years. But I should observe, Archbishop Howley calculated on the gross rent, deducting only the reserved rent; he did not deduct the redeemed land tax, and some other outgoings, but only the reserved rent.

280. Does that come to the same thing?—No, I think not; it is nearly a year and three quarters of the net rent.

281. So that the difference remains, what?—The difference remains, then, of nearly a quarter of a year's purchase. With regard to the Dean and Chapter of Saint Paul's, when I was first chapter clerk, they took only a year and a quarter gross value, deducting the reserved rent, and now they take one and a half for land, and two years for rent-charges.

282. Making allowances or not?—Just the same as to land.

283. Was much difficulty experienced in getting the increased fine from the lessees?—I had to persuade them a little into it.

284. You showed them after all it was a very good thing, even at an increased fine?—Lessees are so clever they do not want much teaching. There is one thing I would suggest as the reason why deans and chapters cannot succeed so well with their lessees as bishops do, namely, that by some inadvertence or other they have not the power of granting a concurrent lease.

285. On the other hand, is there not a greater interest in a single life, like that of a bishop, to make terms of any kind than in a corporate body?—No, it is exactly the same (I have considered that), because every individual canon is in the same state as the bishop.

286. He has only an interest in a share, he has not so large a stake as the bishop?—Pro tanto it is the same. Every canon has his distinct interest in a share of the corporate revenues.

287. In the case of a chapter, if a lessee offered much less than the value, the chapter would not consent to it, and a single person might; is not that so?—It is exactly the same with regard to individuals. I have had to do with both. I find it precisely the same. The course is, when leases are renewable, they inquire, "Mr. Hodgson, when do you expect "such a fine to be paid?" Just the same inquiry made with regard to individuals in that capacity as with an individual bishop.

288. Are there not a great many more leases on lives on bishops property than on property of deans and chapters?—Yes, I believe so.

289. Is not the reason of that that deans and chapters have always refused to take any thing but the fair and exact value, when an individual might not do so in the same number of cases?—I have never seen that case arise. We never make abatement except in special cases.

290. In cases that have come under your observation it is remarkable that there are very few leases for lives?—That is so. The Bishop of London has more estates on lives than my other employers; but I have never had the slightest difficulty with them; they have always been renewed well up, although the five per cent. table is used in fixing fines on renewal of leases for lives. When a lease is to be renewed, in consequence of a life having fallen, it is usual for another life to be speedily put in.

291. If you had to advise on land for the first time to be let, on what principle should you advise; on lives or terms of years?—Terms of years. I am very much against lives.

292. Is it disadvantageous to the lessor?—I think it is disadvantageous to the lessor and to every interest belonging to the ownership of the property, be it how it may, because it is so uncertain. I have known some go on for sixty years without a change, and in other cases frequent deaths.

293. Those for twenty-one years are generally renewed at a given epoch, are they not?—Yes, regularly at the end of seven years.

294. Have you had within your observation cases in which leases for lives have been converted into leases for years?—Yes; a very memorable one of the Bishop of London. A lease for three lives fell into hand of property worth nearly 1,200*l.* a year, and, as I think, very much indeed to his lordship's honour, he would not grant a new lease for three lives, but only for twenty-one years. It came to himself at that time, and he had power to grant it to anybody, but by the course he adopted he sacrificed four or five years purchase. His lordship adopted the same course in another case, where the estate was small.

295. Is there not some law by which deans and chapters are prohibited from doing that?—I think not; but by the recent Act a lease for twenty-one years may not be converted into a lease for three lives.

296. Have not the Dean and Chapter of Canterbury, in so renewing, been acting under the idea they were bound so to do either by their statutes or the law of the land?—If it is so, it must be by their own statutes, there is no such law.

297. There is no law, you think, on the case?—No.

298. With regard to the rent-charges since the commutation of tithe, has any difference been made in assessing the fine with reference to the leases of rent-charges?—Yes, there has in every case I have had to manage. I ought to have stated that before. Archbishop Howley immediately altered his plan of renewing upon rent-charges at two years net value, instead of, as it had been for tithes before, at a year and a half what we call gross value, deducting the reserved rent.

299. Two years?—Yes.

300. That has risen from one and a half?—Yes.

301. That is with the exception of the subtraction of the outgoings; they are still deducted?—There are more deducted now. The Dean and Chapter of Saint Paul's take two years instead of a year and a half on the rent-charges. I should tell you, at the same time, the Archbishop of Canterbury would have taken two years on rent-charges as he did on lands, but Archbishop Howley only received one and a half as to both, but he increased it as to rent-charges to two years, but left the fine as to lands exactly as before; when the present Archbishop succeeded he increased the land to two years, the same as the rent-charges.

302. Does the Bishop of London take two years and a half on rent-charges?—Two years.

303. Does he get that easily?—

304. Have you only had one instance of renewal?— } *See note* *.

305. You do not know in what way two and a half will be received?—It will not work well. I expect great difficulty about it, of course. The great trouble I have hitherto had is when we have tried to load the lessees with more burdens, that is to say, with augmentations under the Act the 1st and 2d of William IV., chapter 45; then they have complained when, besides their other burdens (although an adequate allowance was made for it), a stipend of 50*l.* a year was added to augment a small living; that they did not like at all.

306. You have found peculiar difficulties when you have made an augmentation to the curate, making a full equivalent allowance in the fine?—Yes.

307. You have found peculiar difficulties and objections?—Very great objections were made.

308. Do you mean they did not like that increase of reserved rent?—It made them exceedingly discontented. I had great difficulty with regard to the arrangements.

309. Although, as you conceive, you made the full equivalent allowance in the fine for that increased reservation?—Yes, allowance was made exactly at the same rate that was adopted in fixing the fine on the renewal of the lease.

310. Are your reserved rents very small in general?—Very small.

311. Nominal?—More than nominal. They were, I believe, the actual value in the time of Henry the Eighth.

312. Is not sometimes the redeemed land tax a considerable sum?—Yes, and that they had to pay to government before the redemption. We do not consolidate redeemed rent

* The witness, on his examination, had stated in error that the Bishop of London takes two years and a half (instead of two), which has been corrected by him since he gave evidence.

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and redeemed land tax, they are kept distinct. Lessees complained in this way; they said, We are subject to mortgages, and other charges, just as with regard to our freehold estates. They complained very much in that way, and did not like paying the augmentation stipend.

313. How do you suppose they generally provide fines? Have they generally provided the fines previously by insurance, so as to have the sum ready; do they borrow it at the time, or take it out of the ready money they have?—They never tell me that.

314. Have you not occasion to hear?—I know sometimes that they have to borrow it. They very often have to borrow it, and many leases are mortgaged.

315. In many cases it would be more convenient, would it not, for them to pay an increased rent rather than raise a sum of money?—I think it would be very objectionable to them to have their rent increased.

316. Do you think they would rather pay the money down?—I think they would rather pay the money down, and go on at the old rent.

317. Are you now speaking of gentlemen farming their own land, or others?—All classes.

318. You think that would be objectionable to them all?—I think so. They do not like to have the estate burdened; that is the fact whenever I have had the opportunity of discerning it; in that case in particular about the augmentations.

319. That is the only case you have had occasion to observe it, about the augmentation of the stipend?—I do not recollect any other than that. With respect to those augmentations, the late Archbishop of Canterbury was extremely liberal to the incumbents of small livings in the patronage of the see, and so was the Bishop of London; and I had, I believe, more than any other person to do in the business of exercising the powers of that Act of Parliament.

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320. ARE you solicitor to the Ecclesiastical Commissioners for England?—I am one of the two joint solicitors.

321. Have you read a paper of suggestions for a first report from this board?—I have.

322. Do any observations occur to you on the principles which have been therein suggested as to the mode of dealing with ecclesiastical estates?—Such principles as I have been accustomed to look to, as an agent of the Ecclesiastical Commissioners, I have put down in a memorandum which I have forwarded to the board. I have explained in the commencement of it the reason I had for sending it in. I was not aware of any particular point to which I should be examined to-day.

323. From the intercourse which you have had with church lessees, what occurs to you as to the practicability or the expediency of converting fines or portions of fines into an increased reserved rent?—If the lessees do not object to an increased reserved rent, such as is contemplated in the suggestions which have been handed to me, there can be no doubt that it is a very excellent investment, as, of course, the more reserved rent you have upon the land the better. Generally, the wider the margin there is between the rent and the annual value of the land the better for the Church in point of security. The system of reserved rents saves expense of management; but as a rule I have found parties more desirous of purchasing the fee than of paying a reserved rent. When they have preferred renewals to a purchase it has been, I believe, because it takes less money, and they get more advantage by it. As a rule that is so; but as regards the interest of the Church, there can be no doubt that reserved rents on ample property are the best security you could have.

324. To what extent or what proportion of the rent should you imagine it would be safe or expedient for the Church to carry the reserved rent?—It must have regard to the annual value of the land.

325. But in what proportion?—I think a moiety should be the outside, for two reasons; one, I think the lessees themselves would not like to be burdened with a larger annual payment; and, secondly, taking the risk of property not being let from time to time, and other impediments or alterations in the value of property, there ought to be a wide margin in order to protect the interests which are represented by the rent-charge.

326. Have you, in your intercourse with lessees, or dealing with property in general, in private practice, found parties willing and desirous, or otherwise, to assume to themselves the permanent burden of a rent-charge?—My own experience, both in private practice and as connected with the Ecclesiastical Commission, is that they would desire to be relieved from it.

327. Do you mean they would prefer paying a fine?—They would prefer paying a fine to paying a heavy rent.

328. Do you imagine an increased rent-charge would not be a popular proposal to the body of lessees?—Certainly not, if there be any great increase. I would put the case in this way. Take the case of a property for the sale of which the Ecclesiastical Commissioners were in treaty for recently,—at present it is suspended. The lessee is desirous of purchasing; the annual value is 4,000*l.* a year. If you have the half annual value, and there is a rent of 2,000*l.* a year to pay by that lessee out of his domain, I think the lessee would object, and that he would prefer buying the whole 4,000*l.* per annum at one sum. That applies to the case where it is a large property. I should mention that according to different places there are different views held by different parties. In the neighbourhood of London there would be no difficulty in having a moderate reserved rent; at Wolverhampton, where the Commissioners have a large property, the parties there object to a leasehold interest, and are delighted to get rid of it. In Liverpool you would find they would take a lease of seventy-five years, and they would prefer that lease; it is their custom. In Manchester they prefer ninety-nine years or longer. And I consider the tenure which you find prevailing in the place is an index to the kind of tenure which parties prefer.

329. Then there seems to be no other alternative for the Commissioners to adopt but these three, namely, the running out the leases and becoming landlords at rack rent, or making arrangement for renewal of leases, and, thirdly, the selling the property?—Yes; that is so.

330. Do you think it would be advantageous to the Commission to adopt a plan of becoming the holders of property at rack rent?—That is a very wide question.

331. The question refers to agricultural property more particularly?—I should say it is desirable not to have the property at rack rent if you can avoid it without too great a sacrifice. If you object to have it at rack rent, whether it is a lessee, or a middle-man as they would term it in Ireland, he must have his profit; that must come out of what would be the rack rent; and therefore the question would be with the Commission, I imagine, if they had the choice, which is the most advantageous and economical to them. At rack rent we know there is a certain expense of agency and valuers and surveyors, risks of letting, and dilapidations, and other matters; that expense of course is appreciable either by an average estimate or by reference to the particular incidents of the estate; that you would avoid by having a lessee who takes those risks on himself, and for that reason it is that renewable leases are preferable to rack rents. But if the profit taken by the lessee exceeds the agency, and a fair per-centage of profit, it appears to me that the keeping up that tenure would be a great detriment.

332. Is there not a certain advantage in the rack rent which is enjoyed by a layman which must be paid for by whoever holds it, but which is of no advantage to a churchman, such as territorial influence, sporting on manors, and that sort of importance which in this country, by the habits of society, follows upon the possession of land?—Perhaps I may be permitted to make a distinction in my answer. I should say, distinctly, where a churchman is owner there are advantages which are as it were in abeyance; but to a lay corporation, with agents properly controlled, I think they may get the full advantage of that by leasing it, or letting it to parties, or using it in other ways. A manor can be let, the sporting can be let, or if you retain a power of buying and selling, which has been found, I believe, to be highly advantageous to the Church, you can always get the value of that in the price, at least to a great extent. I will take manors, for instance. Manors now are much more valuable than they used to be, because there is a power of enfranchisement. A value of a manor would not be, as it used to be, an average of past quit rents and fines running over a certain period, but it would be what that property would fairly sell for, if enfranchised by the Copyhold Commissioners. Previous to the Copyhold Commutation Act those manors were a dead letter, to the Church more particularly; and they were only useful to gentlemen of property from the importance attached to them which is alluded to in the question. The fact of being lord of the manor, with the rights of sporting, in some parts of the country is considered a very great matter. I recollect attending the courts of a large manor in the fens in Ely, where they paid as much respect to the lord of the manor as if he were a member of the House of Peers. But there is no doubt, in a degree, a manor is less valuable in the hands of the Church than in the hands of a layman.

333. You were just now stating, if you allow a rate of interest to the lessees which allows them a profit exceeding what is the proper return for their agency and for their risks, that you are then doing something prejudicial to the Church; is that so?—Only thus far prejudicial: I should look upon a lessee, even on that principle, as merely a different class of agent. Whether you paid the one agent or the other, entirely depends on the responsibility of the paid agent, or the power of guarantee on the part of the other.

334. You are considering he is to be allowed what is the proper sum, allowing him a rate of interest which would just cover his trouble and expense and risks as a collector?—He must have a profit in addition to that, otherwise there is no inducement to take such a risk as a guarantee on himself.

335. I understood you to say, when you were asked whether that would be a profitable mode of managing Church property, you said, Yes, unless you give him such a rate of interest

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interest as would do more than cover that?—Yes; you must do that in order to induce him to take it.

336. Is it your opinion you are not to confine the rate of interest to that rate of interest which would merely cover the expense of agency, and the calculation of risks?—Certainly. I am assuming the fact that the lessee is a desirable kind of tenant, because he saves you from the immediate risk and cost and trouble of management; and for that he is entitled to a certain bonus, if I may so term it, over and above what you would otherwise pay.

337. Then you did not mean what I understood, that it is a losing plan to allow any larger rate of interest than would just cover the expenses?—I did not mean to limit myself to that; when I used the word "cover," I meant there should be a sufficient margin.

338. Have you ever considered how wide the margin should be?—Treating it as a lessee's question, I have put in the paper which I have sent to the Commission what it appears to me really and truly the lessee would claim as the benefit he would be to the Church, and that is from one to one and a half per cent.

339. Supposing the allowance proposed to the lessee was a rate of interest of seven per cent. on half the rental, do you think that would be too wide a margin to allow him?—That is three and a half per cent. on the whole.

340. No; renewing at half the rental, fining it at seven per cent.?—That would be a fine for half and rack rent for the remainder.

341. Supposing the fine 2,000*l.* to be due, suppose you release the lessee from the necessity of paying 1,000*l.*, adding to the reserved rent at the same time, but you allow him to make seven per cent. on the other 1,000*l.*, do you think that would be allowing him too large a margin for his agency and risk?—I think it would, because at the present day the value of money on an average would not be more than four per cent., and you are allowing nearly seven per cent. on his capital.

342. On half?—Still he gets seven per cent. on the whole.

343. Take seven per cent. for the Church on 1,000*l.*, and allow him seven per cent. on the other 1,000*l.*?—If I understand this paper of suggestions, it is proposed to allow seven per cent. on the moiety for which the fine is not paid, for seven years after fourteen.

344. For any term; there would be no end to that?—I am assuming you were turning leases for lives into leases for twenty-one years.

345. That is an independent operation not necessarily connected with the plan of increasing reserved rents to half the rack rent?—Taking it at seven per cent., which is two years purchase, as I find it in these suggestions, it is taken at seven per cent. for twenty-one years only as to that moiety. If so, as the lessee has his moiety at seven per cent., and you have yours at twenty-one years only, he would have it in perpetuity, and you have it only for twenty-one years, and that is renewing the whole at seven per cent.

346. Supposing the case of an estate (do not talk of rent-charges) with a fine of 2,000*l.* every seven years; supposing you take 70*l.* on each of those fines, and you went on so until you got half the rack rent of the estate; supposing for the other you went on renewing at seven per cent.; the end of the operation would be, supposing the whole value of the Church property, independent of tithe rent-charge, to be one million of money, after a certain number of renewals you would have an annual rental of 500,000*l.*, and you would go on renewing upon your perpetually increasing the value of the other 500,000*l.* How should I be limiting myself in that case to twenty-one years?—If you take 1,000*l.* for seven years renewal at the end of fourteen years, that is, for adding seven after fourteen, which is twenty-one, you will find, taking the rate of money at three and a half per cent. as it is calculated in these suggestions on the tithe rent-charge question, you will find you put 35*l.* as the money you have to use, and you invest 35*l.*, and it produces you 1,000*l.* at the end of twenty-one years; you then have the 1,000*l.*, and the estate is your own.

347. We are talking of what is the reasonable allowance for management and agency; assume, as has been supposed, this plan to be pursued until the Church is in possession of half the rack-rental, and the lessee with his profit on the other half; do you then think that would be too large an allowance for that sort of agency and risk?—Yes, I do, for this reason: an ordinary landlord does not make seven per cent. of his money; he is content to make three and a half; then comes the question, why the Church, with the power of buying and selling, and having its estate out of mortmain, should be dealt with otherwise, except for special reasons. Seven per cent. is cent. per cent. in that case.

348. Half only?—That particular half is the whole, quoad the particular question. It is a seven per cent. table on that.

349. The lessee has to manage an estate of 1,000*l.* a year, in which he has only a temporary interest of 500*l.*; a lessee at the end of the period when the reserved rent is raised up to half is then left in the condition of having to manage an estate in which he has a temporary interest in half the rent. The question is, whether a fine calculated on seven per cent. tables, with regard to the half in which he remains interested, is more or less than sufficient remuneration for the management?—The question supposed the case of a lessee who has a temporary interest.

350. He

350. He has not the fee?—If he has a perpetual right of renewal that is the fee; subject to the incumbrance of renewal that is a perpetual interest; and he has all the improvements.

351. Are not those valued against him?—Subject to that burden, if it is to be looked at as a temporary interest; that is the real principle of the old renewals, because it was temporary; but if he has a perpetual right of renewal under any shape in the other half, it is his interest to allow to the Church a larger benefit, and he ought to do so.

352. Putting aside the temporary nature of his interest, as, perhaps, to be met by other arrangements, and considering him only as the manager of the estate in which he has only an interest in half, do you conceive the seven per cent. table would be too high an allowance?—I certainly think it would. If he had a perpetual right of renewal in one half he ought to manage the other half on easier terms for the Church, on that very ground.

353. You think the seven per cent. would be more than enough to allow him one half, supposing there was no perpetual right of renewal, and it would become more excessive in case he had a perpetual right of renewal?—Yes. I will take the case,—the very common case,—of a man having an estate in a parish, which he finds intersected with other property, and it is a great object to him to get it. I have made a bargain this morning for an estate which it was a great advantage to acquire, because it was mixed up with an estate in hand of which the lease had lately fallen in. In this case there was a mutual advantage in buying or selling; but the purchaser has the permanent advantage, and hence would be satisfied with a reduced rate of interest or return for his investment.

354. What do you make the purchaser pay in that case, forty years purchase?—No, not so much as that. I cannot recollect what it is exactly.

355. You consider as a certain element of advantage, with regard to the lessee, the enjoyment belonging to landed estates generally, whether in political influence, or in the feeling of importance belonging to a resident country gentleman, or the preference that men generally have for the country over towns when not engaged in active business?—Yes, certainly.

356. Do you look upon all these things as in a certain degree a compensation for management?—I do.

357. These are compensations which constantly induce men, do they not, to take a much less interest for their money in land than they would in any other shape?—No doubt of it.

358. Does not that answer apply more to the case of gentlemen than tenant farmers? Would a tenant farmer value those matters so highly?—It depends upon the rights that are accorded to him by the landlord; if he has the rights of sporting and the like, the same reasoning would apply.

359. If they have not those?—Then that would be a drawback.

360. Supposing it was decided to continue to renew, not upon the same terms, but in the same manner, as at present,—to renew without increasing the reserved rents, and to renew every seven years, adding seven years to fourteen,—what should you think would be a fair rate of interest upon which to calculate the fines, the renewals being compulsory?—I should have said myself from four to four and a half per cent.

361. According to the present plan?—Yes.

362. Would you desire to see a provision in that case for arrangements between the lessor and lessee as to benefit to be derived from money vested in improvements?—Yes; and when I say four or four and a half per cent., I mean with reference to the annual value for the time.

363. Is not one of the difficulties of the tenants upon the present system that a lessee has no security that he will receive the benefit of his improvements fully to himself?—Yes.

364. Do you conceive one of the evils attendant on the present custom would be met by provisions enabling parties, under proper securities, to meet each other on those points?—Certainly. There is another point which is also very material, and which I have found the greatest difficulty when transacting business for the Ecclesiastical Commission, and that is the extremely irregular way in which both lessees and lessors have kept the terriers of their property, so that it is extremely difficult to make out the property.

365. Do you mean the boundaries are so uncertain?—Yes; the boundaries are often so uncertain and so mixed that there is great difficulty in ascertaining what is leasehold and what freehold. There is one case I may mention which occurred within the last three or four months. By the commutation of a chapter the Commission has become possessed of all the chapter property. The surveyors, upon going into one of the parishes, found, from the documents in their possession, that the whole parish belonged to the chapter; but when they came to look at the terriers on which the renewals had been made by the chapter the proportion was found to be that they renewed on 400 acres, and the parish was 700 acres; and when they went to the parish, it being held by two parties, these parties at first recognized only 400 acres, but finished by admitting the 700 to be held of the chapter. Now those 300 acres are clear gain to the Church.

 366. Are

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366. Are you aware that the Tithe Commission and Copyhold Commission have already powers of setting out conventional or arbitrary boundaries?—Yes.

367. Do you find on the part of the Commissioners those powers work well?—I should wish extremely to see them extended much further; there are so many consents required, that it is a most difficult thing to bring the powers to bear unless there is a desire on both sides.

368. Supposing it were made compulsory, and that no consent should be necessary. Supposing, in the case of Church land, power was given to send an assistant commissioner in all cases of disputed boundary to set out the real boundaries as they could ascertain them, by evidence or conventional boundaries, if the lessor and the lessee agree to the conventional boundary, or arbitrary ones if they would not agree, should you think that desirable?—I think it would be highly desirable; and in reference to that point I have been speaking of, if a system of perpetual renewal is adopted, I think it would be but equitable the Church should have the power of at once investigating all the boundaries, wherever they are. Before you can come before a judicial tribunal you must have some reason to move the tribunal itself. It would not do for the Commissioners or agents to say, "I should like to see whether I have got more or less."

369. You mean, to have it investigated on the first occasion for renewal, of course?—The moment you get one terrier, you would find you have gained all that I want, if well ascertained.

370. Would not the proper time for making that investigation be when the parties were going to make a renewal?—Unquestionably. I will mention another case, to show the great advantage of investigation, where the Tithe Commutation is stopped, because we could not make out our prebendal land. The reason is, because the lessee has all the rest of the parish. I have claimed 183 acres of land, and he originally offered to renew or to deal with it as if it were 57, and that was because he produced a map of 1753, showing that quantity. The Commissioners became possessed of ancient papers relating to this prebend, and it appears from 1723 down to 1801 there had been a contest between the Church and the lessees of the day on the one hand to narrow, and on the other to ascertain, the real boundary. In 1801 there were two estates held by lease, one under the chapter and one under the prebend; the chapter got into a chancery suit, and they were put off with ten acres of land by a decree against them, which was only decided in 1836. The papers relating to the prebend clearly demonstrated to me the chapter estate was 200 acres. All this was done on the same plan that was laid down in 1753, when the map was made which created this difficulty. Had there been an accurate terrier I have no doubt that would have been all prevented.

371. Supposing litigation ensued about that, the lessees would be no gainers; if they mixed the Church land with their own, it would be for them to account at their peril, would it not?—It is a doubtful point of law. If renewals have taken place without the boundaries being sufficiently or duly inquired into, and particularly if there has been what the lawyers would call a descent cast in the meanwhile, the lessors would be fixed; and in that way a vast quantity of property has been lost to the Church. In another part of the country there is a case which will come on very shortly, when I hope, through the Inclosure Commission, to get it settled. In 1803 or 1804 an Inclosure Act was passed for inclosing the open fields in the parish; the lessee of the land held the land under another public body, and he held freehold land of his own; he got one allotment made, and he has been going on renewing on 120 or 130 acres of land several times until the prebend lapsed to the Commission, and when inquiry was made about it the land was nowhere to be found, although it is set out in a schedule to the lease.

372. Is not that exactly the case where the Church is said, or the lessors are said, to have a certain quantity of land, and the lessee says, "I did not use that land, tell me where it is"?—Yes.

373. In that case it would be for the benefit of both parties there should be conventional or arbitrary boundaries, so that each party should know what he could equitably claim?—I am sure it would be but consistent with what is right and just that there should be such a power that neither party could escape from; if the property is put on such a footing that the lessees become, in fact, farmers for the Church. For the benefit of both parties, in the outset, whatever interest they have in the land ought to be distinctly defined and admitted by both parties.

374. Would not the parochial maps and the Tithe Commission maps enable the Ecclesiastical Commissioners to do that at half the expense that would otherwise be incurred?—First-class authentic maps would be important. But there is a case in the South of England where we must bring an ejectment against the great landlord of the parish, who quotes the Tithe map as his authority; and it can be clearly proved that he has taken an entire front off one of the farms, and thrown us round into another lane, and has got some land and a tithe-barn, but he has put down that portion on the map as belonging to him. No doubt these maps are highly useful, but I am repeatedly obliged to go to Domesday to find out the Church land, and very often find it of the greatest use. The most approximate terrier I can get is the parliamentary survey, and the ultimate one is Domesday.

375. Supposing

375. Supposing a general conflict took place, and it was determined to set all these boundaries to rights, would not the lessees be the persons suffering the greatest disadvantage. When it was admitted they held a certain quantity of land, if they mixed up with their own land, would not the old story of Lord Eldon's apply, "If you mix my pea in your bushel of "peas, I will take the whole bushel if you cannot give me my pea"?—It all depends on whether it is done in what is called modern days.

376. Can the lessee, when there is that uncertainty of boundary as between his land and that of his lessor, make a title to his own land to a third party?—Clearly not; but I am sorry to say that is not so very difficult a matter. I recollect a case in the North, where the lessee offered the estate for sale as copyhold. It happened to be leasehold. He had also freehold of his own. There were the three tenures. The title became involved; they could not make out the copyhold title, and therefore they sold it as freehold. It turned out it was leasehold, and therefore the buyer could not retain possession. We took possession by going into his house, and holding the court in it. It was a mere house and a small property, but the principle was the same.

377. It was copyhold?—It was copyhold.

378. Had he not forfeited it by selling it as freehold?— Upon recollection it was demesne land, not copyhold. The party had to go to his covenants to get the money back. To show it is an advantage to the lessee to have these boundaries ascertained I should state, while I was attending at a commutation where we claimed a rent-charge belonging to a certain prebend, where the lessees had had the property in their family for 200 years; looking at their title deeds, they found a terrier, which showed that we were portionists, and they had a more ancient title; of course, as portionists, we had to make out our title; they then produced this terrier of our portion, which appeared to be a great deal too small. The chapter was applied to to have searches made, as I was quite satisfied that was not all the portion we were entitled to. We found the remainder of our terrier registered in their books. In the end we had to give up about 20*l.* a year for their proportion, and the remainder belonged to us. There was a case in another diocese, where the lessee proved a more ancient title than the chapter, although we both went back to the twelfth or thirteenth century, to the foundation of the prebend, where again it was but just the lessee should have his portion assigned and title confirmed, although he was lessee for the term, and the question would not, in strictness, have arisen till it expired.

379. When the confusion has arisen from carelessness, and without deliberate dishonesty, then it is as likely to be beneficial to one party as to the other; and when it has arisen from deliberate dishonesty, it is quite fit that it should be put to-rights?—Yes. I assume, as a rule, that it is merely want of due diligence in looking after the estate on one hand, and carelessness on the other.

380. Have you had any experience of the management of large estates by corporate bodies?—I cannot say I have. I am not concerned for any large corporate body that have estates.

381. Or large endowed schools or colleges?—I have had occasional business for some of the colleges at Oxford.

382. Do you believe landed estates could be managed with the same advantage, both as to economy, and as strong a stimulus to improvement, by corporate bodies, whether lay or ecclesiastical, as by private individuals?—I think the estates of corporate bodies, if they are properly looked after and their agents duly controlled, the best looked after of the two. They take a wider view; they have larger means; and, generally speaking, I should say, they are preferred as landlords on that account.

383. Have you had some experience in the West of England of estates, where there are lords farmers?—I have.

384. I believe wherever lords farmers are found at the present moment they are refusing to renew copyholds for lives?—Yes; to a very great extent.

385. Do you hear of any grumbling about that?—When I have had to deal with the parties who are lords farmers, they grumble if I do not allow them to buy as if all the lives were fully stated.

386. Do you know this practice to have been going on for some time in the West of England, and that there has been no general murmur of discontent on the part of the copyholder?—No. There are not less than six sales, of which we have advised the suspension, because of the peculiar state of the copyhold. I had one case this morning: I was attending as solicitor on a sale, where there is a manor on which there has been no renewal for a very long time, and the consequence is, that it is a great question whether the copyhold tenure is not gone, and the land become demesne. We had a case in another part of the country last week before the Board, where the parties have bought copyhold, and the lessees have neglected to take a conveyance to a trustee for themselves to surrender to a trustee; the consequence is, we are obliged to treat it as freehold, and they will lose their estate.

387. Upon what terms is that operation going on generally; are the copyholders for lives turned into tenants for years?—They become tenants in chief.

388. Supposing

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388. Supposing I am a lord's farmer, and I refuse to renew for tithe which is held under me as lord farmer; when I so refuse, what do I say? Do I say, "You shall have it at rack rent"?—Yes; at the rack rent.

389. Would it not be about the same thing as if the Ecclesiastical Commissioners were to refuse to renew altogether the leases, and were to turn the whole of the estate into rack-rent estates?—Exactly.

390. And that has been going on through great part of the West of England. There has been no general murmur about it; no public meeting, for instance?—No; it has been there treated as a matter of course. Copyhold tenure of itself is not the best or most agreeable kind of tenure. It is merely changing from one tenure to the other, and they have been prepared for it.

391. A copyhold tenure under the lord's farmer is better than a lease for lives; they have copyhold privileges, and they may at ninety marry a young woman, who would be entitled to her widowhood?—Yes; I have had such a case; the consequence is, that the reversion is postponed proportionably. There are some manors in the West of England where they profess to have the right, and exercise it, of renewing for six lives with a widowhood; the consequence is, and by a calculation you will find, it will keep the reversion out for 120 years.

392. In consequence of these copyhold privileges is it not a harder case to deprive those copyholders of the renewal of their copyhold than the Church lessees?—Yes; they lose the privilege of marrying in that way, among others. I had a case which recently occurred on one of the West of England manors, where one of the longest lives at this moment is the widow who married, at nineteen, a man who was seventy-seven, on his death-bed. There is another thing I would mention; it is a custom that was carried on under the Land Tax Redemption Act, and is under the Copyhold Acts at the present moment, of exchanging of old lives for young ones at moderate fines, or half fines, and then enfranchising, and thus postponing the reversion; that is entirely because the Ecclesiastical Lease Restriction Act, 1836, does not in terms (whether the equity is so or not I do not know) include copyholds. There is this peculiarity, if the manor is held in chief by the prebendary, he could not renew for the number of lives under the Act, but his lord farmer may, so that the lessee has a much greater privilege than the lessor.

393. Is there a great amount of property held on lease of the copyhold character?—I should think there are 3,000 instances in the West of England.

394. Of Church property?—Of Church property.

395. Gloucester and Hereford do you include in the West of England?—Yes.

396. Do you mean 3,000 leases?—I mean copyhold estates, more or less, of various kinds.

397. Not separate estates?—Not separate manors, but separate estates.

398. Do you know the terms of renewal generally on putting in a life?—Of copyhold.

399. Under the lords farmers?—It varies with the manor; some are quite arbitrary, in others they have fines certain; and then there is no object in renewing except to keep possession of the land.

400. Do you not find very great carelessness as to estimating the value of lives in being?—Yes. You must have seen that in the enfranchisement; it must have come before you.

401. Do they not appear to enfranchise without any reference whatever to the value of the lives in being?—I recollect one of the reports; I think the year before last. In one line a copyhold enfranchised on three given lives, and five years purchase is the amount given for the enfranchisement; in the next line, the same lives at sixteen years purchase: that is from the want of proceeding upon some general principle. There is another difficulty which I very often find as an agent with regard to the cathedral property, and that is the imperfect manner in which the records are kept. I have at this moment a case where the lessee is anxious to buy the estate; the parish is about seven hundred acres; there is the manor, of which he is of course the lord farmer; and owing to not having kept up the courts there has been the greatest difficulty in ascertaining what the copyholds were. He said he supposed they might be a hundred and twenty acres. He gave me facilities for going to ancient books. I took all the copyhold for about ten or twenty years admissions a century and a half ago, and I shall establish I think at least 500 acres out of 700 to be copyhold.

402. We all know there is some system of registration likely to be established; would it not be advisable either that a general measure of registration should embrace all the leases granted by the Church, or that there should be some modification of it introduced which would embrace it?—Certainly.

403. You think the opportunity should not be lost, if there is a General Registration Bill, of including in that registration all these leases?—Certainly. That Bill ought to contain the most ample powers for those entitled to the reserved rent to see the right title is registered to the right person.

404. Are

404. Are you aware, as a lawyer, that at this moment several of the chapter clerks and persons who manage ecclesiastical property insist on seeing all the trusts have been fulfilled which have been created with a view to this land?—I was not aware of that.

405. Supposing that to be the case, would it not also be desirable to relieve the persons who are dealing with church land from all necessity of looking to the fulfilment of equitable trusts that have been created about these leases?—I feel hardly competent to answer that question; it must depend upon the notice they have of the trust. There was a case where the lessee was desirous of buying the reversion of his estate, under the Commissioners rules, and the Commissioners were desirous to sell; the price was agreed upon. In such cases, we take the precaution to require the lessee to disclose such a title as brings him within the scope of the resolutions which the Commissioners have laid on the table of the Houses of Parliament; we feel bound to see that he is the right person, and write to the party to produce his title. The solicitor of the party to whom I have just referred delivered a voluminous abstract of a single deed of trust, and that trust deed was to settle a chancery suit, commenced in 1806, against the then lessee, who, being a trustee, had put this estate up to auction, and bought it in for himself; two years afterwards a suit was filed against him, and the sale set aside; he put it up a second time, and twenty years afterwards it was found he had bought it in, through a third person, for himself. A second suit was then filed, and that suit we found in 1842 was compromised by this deed to which I have referred. There were five children of the original cestuique trusts; four of them the lessee had bought up by payments of a certain sum of money, but of those four it appeared that the money had been paid to three who were executors; and as to the fifth, the suit was abated simply because he could not pay the costs of a bill of revivor. We considered, of course, except as to the one who was competent to compromise the case, that four fifths of that estate were not rightly in this lessee, and we therefore took the objection to the title; there was a good deal of discussion about it, parties were very dissatisfied; but it ended in our declining to make the bargain, and their paying the costs.

406. In order to avoid all this cost and expense could there not be introduced into the Bill or Bills which are going to be brought into Parliament for establishing a registration some authority for dealing only with the legal estate, and leaving the equity to some other course?—I cannot see any objection to that. If the party I have just referred to had sent in only the abstract of his lease we should not have had another word to say on the subject; we should have been quite discharged from going further into the matter, because he having the legal estate was trustee for those parties, if they had the right; but he giving notice on the face of his abstract of the facts, we considered that, consistently with the terms of the resolutions, we could not deal with him without noticing the other claimants.

407. And did you make him pay you the costs?—Yes; he did pay them. In fact, we were desirous of getting the property. I may mention, as a proof of the great advantage that has arisen from the change of management of the property, no matter who is to have it, lessor or lessee, there was one estate where the interests of the incumbent were commuted, which upon an average of years has not produced above 100*l.* a year from fines and reserved rents, but I have not the least doubt we shall be able to obtain 15,000*l.* for it.

408. From your experience in the investigation of property which has come into the hands of the Ecclesiastical Commissioners, do you believe there is a great dormant value not developed under its present management?—Unquestionably, a very great value.

409. With regard to such a case, will the greater value to which you have referred be produced in consequence of the increase of buildings?—In reply to that I will mention, as an instance, that when I went to Wolverhampton in relation to the property there, I found it dotted over with wretched patches of houses, and land in a bad state, which were marked out as church property. There were eight prebends, a dean, and a sacrist, not one of whom came near the place, and the property went in this way to ruin, no one could deal with it. Now we are hoping for better things, there being facilities for putting it into action, or selling it, when necessary, or letting it upon lease; there are plans in the Commission, and, if necessary, they would adapt some part of that land as building ground; but there is a great reluctance at Wolverhampton to build upon terms of years, they want the freehold there.

410. But in such a case as that which you have mentioned, even by the sale of the freehold, there would be a large gain to the Church?—Yes, undoubtedly.

411. Do you believe it of more advantage for ecclesiastical purposes to retain building land or to part with it?—I should say it is best to part with it if you can part with it and secure the profit as building land. There are two profits in building land, the first and second; the first is what a man gives to have an opportunity of bringing it into the market; the contractors who build take a second profit. In my neighbourhood of Blackheath, at Lee, a small plot of ground was sold the other day at the rate of 500*l.* an acre; the man who bought that, in the course of three years, I should think, made about another 500*l.* an acre by his bargain by reserved rents; that is simply because of the double profit upon the contractor's risk.

412. Supposing that an agent of a large property in houses were to state that he found that he disposed of them for very nearly the same sum on leases for ninety-nine years as for the freehold, would it not be obvious that it would be the advantage of the

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Church to stick to the ninety-nine years lease?—Unquestionably; the Church is, as they say, an undying corporation.

413. You think it would be desirable for them to keep the largest interest they can consistent with the improvements of the property?—Yes, consistent with the demand in the market for improvements. If parties will build on ninety-nine years leases, it is quite clear that the Church ought to retain the freehold. There is another reason; in selling the freehold you sell the chance of minerals, and other rights, which are inseparable from what I call the perpetuity of the fee, which was one of the reasons, when the lease question was mooted in Southwell, why it was said there was no interest on the part of the lessee in the actual fee simple. That is the distinction I take; the fee simple ought always to be considered as quite distinct from the lessee, because there are rights in the fee simple which a lessee cannot enjoy.

414. You consider that the lessee has no interest in the dormant value at all?—Certainly not; because for his term he has all the value that he can make of it; he has all that a lessee under those circumstances, or any person having the usufruct of the surface, could have. No lessee has primâ facie a right to minerals or timber. The real position of the lessee is this, that having had so great a probability of renewal, the theory of probabilities brings it almost to a certainty, and so far it partakes of the nature of a fee. The lessee would say, "If I put such improvements upon the land I know that they will exceed my "time, but if I am sure of the renewal I will not hesitate to make those improvements." On the other hand, if he had not that chance of renewal he knows very well that his term is a matter of daily decrement, and he would not make permanent improvements; and that has been a rule throughout the kingdom; and the average has been a great depreciation of property, and loss to the estate. If that probability can be insured to him in any way so that he gets a large share, or an adequate share, in the improvements, it is similar to what is done by many landlords at the present day, that is, advancing to their tenants so many thousand pounds for drainage, provided the tenant pays an increased rent of four per cent. It does not matter where the landlord invests his capital.

415. The confident expectation of renewal would only prolong, as it were, the interest of the lessee, but would not alter its quality so as to enable him to deal with it differently in consequence of that expectation; is that what you mean?—The expectation would induce him to venture upon improvement.

416. Do you mean that he would run some risk of improvement?—Yes.

417. Would it be varying a good deal, according to the custom of the body with which he dealt?—No doubt.

418. If the custom of the body was not to consider the improvement on the first renewal, would he rely upon that to a certain extent, and act upon it?—Certainly.

419. But if there was no such custom existing, you think he would not venture upon any improvement which he had not a certainty of realizing the benefit of within a given time?—That is my opinion.

420. In one respect that expectation would vary very much, would it not, according as it was a question of a term of lives or of years?—It would do so no doubt in the case of a term of lives; the only way to meet the uncertainty would be insuring the lives, which is one reason why I have no doubt the fines were set at what was apparently so much to the advantage of the lessee. Suppose he had renewed upon the seven per cent. table on lives, you might suppose that he would set apart two per cent. for insurance, and that two per cent. virtually came out of the pocket of the Church.

421. Must not that be a very bad tenure to meet the evils of which you are obliged to make a certain allowance?—Yes; it is what I call a gambling tenure. I should wish to mention that I do not consider the tables to apply so strictly to lands as they have been used in many cases, and for this reason, the tables will give the average duration of lives, but tables will never tell the value of a fee simple estate; they only go upon an average according to the value of money; but in every individual case you must take the case itself into consideration. If you apply the average of chances you fall short of it, or go beyond it. It is a great mistake, I think, to apply averages to individual cases.

422. Now are not averages practically taken in all such transactions?—They are.

423. After all, when you have to value leases for lives, must you not resort to tables?—Yes, upon the leasehold part. But I have now in my mind a discussion I had with Mr. Becher, when I contended that all his averages were accurate as to leaseholds, but that they did not apply to reversions and fee simples.

424. Is there not the further uncertainty, when a person is dealing for estates for lives, himself a tenant for life, he has to calculate the risk of his own life?—Yes, and it is worse; for in the case of tenancy for lives where there are settlements it is a great hardship to raise the means of paying the fine.

425. Suppose it were desirable to continue the system of renewable leaseholds, are you of opinion that they should be certainly renewable leaseholds for years and not for lives?—Certainly. Permit me to mention another thing with regard to reserved rent; there is a great difficulty with executors and trustees, more particularly as to the rents of houses when

when the houses are not occupied. I know a case of a house which has been let for 400*l.* a year, the only property which has been left to the daughters of a clergyman. It has been untenanted for a year and a half, the ground rent is 100*l.* a year, and they are put to great straits to get the ground rent, the property being of no use to them whatever.

426. Would there not be considerable difficulty in some cases in parties having to pay an increased reserved rent?—Yes; but the difficulty I have just spoken of has reference to the case of houses. In the case of lands it is hardly conceivable in this country that you should have land unoccupied for any length of time. I would not go beyond a half for the reserved rent upon land; and with regard to land remaining unoccupied, that is an accident that can hardly happen, except in the very worst part of the country.

427. Take the case of Ireland at the present moment. Would you not find it very extensively the case that a heavy reserved rent would be a charge and no incoming?—Yes; at this moment it is said that one of the insurance companies has 200,000 acres of land on which they have heavy mortgages, but they only got 1,000*l.* out of it last year; the place is depopulated; and until they follow the transplanting system, of getting English or Scotch farmers there, they will have the land, but they cannot do anything with it.

428. In the case of land run out by a bad tenant, is it not often the case that for a year or so the land is obliged to be let at little or no rent, for the purpose of enabling it to recover from the ill-usage it has received?—I think a bad tenant should be rather treated as the exception. In a well-managed estate you see to your tenants, and you see to your covenants.

429. But in such a case as the previous question supposed, would not the lessee have to pay his half rent, receiving from the tenant perhaps no rent at all?—Then he would be a dangerous lessee, although we must meet with persons failing in every kind of business.

430. Take this case: suppose the tenant farmer is a bad one, and runs the land out, that it is in such bad condition that when it is let again the new tenant is to pay no rent, or a very small rent; the lessee of the Church meanwhile will be charged with half the original rent or half the rack rent; what would your opinion be in such a case as that, as to the effect of such a reserved rent?—If the lessee is to pay half the rent, and not to get any rent from the tenant farmer, he is in the situation of a person with a house without a tenant; it would be a hard case upon him; but the land in some shape or other would produce the rent afterwards. It could be got up in some shape or other. It is not like a house; a house if it is empty goes on getting worse. It would be expedient, when you come so near as half of the rental, to know on what covenants and in what way the land is cultivated; and bad cultivation would even reduce the rent fifty per cent., there is no doubt about that. The best kind of agricultural lease at the present day is a lease for seventeen or eighteen years, with as few covenants as you can, except to bring it into the customary course at the end of the term.

431. Why do you say a lease for seventeen or eighteen years? Is that the Scotch term?—No; nineteen years is the Scotch term.

432. Is not twenty-one years better than either?—Twenty-one years is a long time for agricultural purposes. Improvements are going on so rapidly now, if you had strict covenants for twenty-one years you would find yourself behind the rest of the neighbourhood at the end of it. A clear fourteen years term is a good thing for a tenant, and if you give three or four years beyond, to bring the land into the cultivation your own agents think it ought to be, that I think will secure the greatest benefit.

433. What is the shortest time you think should be given to the tenant to realize surface improvements?—Never less than fourteen years. I would wish to add a few words with regard to capitular estates. The Ecclesiastical Commissioners are often in very great difficulty, having an interest in the dividends of the chapter, and no voice in the management. I may refer to the chapter of Southwell as an instance, in which case there were sixteen prebendaries, ten of which had fallen in to the Commission. When I had to go down to them on some question of renewal of leases there were six remaining prebendaries, of whom Mr. Becher was the senior; they had the power, and so would one of them, if it had gone on so far as to be reduced to one, of entirely managing that estate upon their own terms, paying whatever they pleased to their own officers, dividing as they pleased, renewing as they pleased, and the Commissioners had not a voice in the question unless they went to the Court of Chancery and filed a bill, which at present they have not been obliged to do. There was a difference of opinion as to the mode of management, and the Commissioners settled the point by commuting the interest of the chapter, by giving to every prebendary more than he had ever enjoyed before, and paying them an arrear also out of their own funds, which supplied over 2,000*l.* for the purpose; and the Commissioners have now the immediate reversion in themselves, and have the direct power of letting the estates as the leases fall in.

434. Were they underlet before?—They were let in a variety of ways upon tables of seven, eight, and nine per cent.; they were gradually getting them down to seven per cent., and on lives to five or six.

435. Had the annual value been fixed at its proper rate?—It had not; that was in fact this difference. They had fixed the annual value on the old valuations, and had not gone

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to the expense of new surveys. I mention that as one instance where there was a large advantage in the working of the Commission. In the present class of leases it is a very common thing, and it is an ordinary description in the parcels of the lease, "All that the "prebend of so and so, with the appurtenances," without any detail at all, and without any covenants, and you are obliged to go to the statutes of Elizabeth as to waste; and now that the writ of waste is taken away in many instances, there is no sufficient remedy for guarding against waste, and that is a point of very material importance to be considered. I have an instance before me now, in the neighbourhood of London, where they have been making at the rate of many millions of bricks for several years, as tenants of the lessee; the lessee was not interfered with by the late prebendaries, and I do not know that we have any remedy, except by a bill in Chancery for an account and for an injunction to stop the brick-making. This arises from want of proper covenants in the main lease. I am now speaking with reference to cases of waste, which it would be a very important point to guard against. There should be an accurate terrier, and an accurate valuation at the commencement.

436. Was that a lease by a single prebendary?—Yes, a prebendal lease. The chapter have one advantage; being a permanent body they have been enabled to make their bargains differently from the prebends; but as a rule it will be found that the chapter leases are on equally, if not more favourable, terms to the lessees than the prebendal leases.

437. Take the case of a sole corporation, a prebend's lease or a bishop's lease. If he is an old man, would he not be naturally anxious to get a fine, and therefore might agree to take a less fine than he ought; whereas in the case of a chapter, would they be alike anxious to do so, seeing that, although that one or two of them may be old men who might wish to do so, the young ones would not agree to it?—In that instance, which is rather an exceptional one, it is so. The incumbent lets on more favourable terms than the chapter. The chapters are more equal in their leases; they are more regular, being more permanent.

438. Do you think there is more check in the case of a chapter than with reference to prebendal leases?—Yes, there is more check in a chapter; and besides that, they have more kept up the ancient mode of leasing, and on more equal terms to the lessee, as it strikes me, than the prebends.

439. Or the bishop?—Yes, or the bishop; but I should say I am not much acquainted with bishops leases.

440. Have you any suggestion to offer upon the point of valuation?—With regard to valuation, it strikes me the great point is to have an efficient board, with their own agents. When I speak of agents I mean agents duly controlled; I am sensible of the great importance of not letting the agents be the board; that is not necessary where the commission is competent to their business, which is happily the case now-a-days. With regard to the common mode of referring matters, that is, one person naming one valuer and the other the other, and the two naming the umpire, I have found from great experience and extensive observation that it is simply taking two extreme opinions, and the third person "splitting the difference."

441. You are of opinion that you have no security for arriving at a just result?—Yes; so far from it, I find that the two nominees are merely advocates, and we see it in practice every day under the Lands Clauses Acts. We rarely think now of taking it in the shape of a reference; we agree upon the name of the third party, and each agent is the advocate of the case before the umpire. In an open reference, you have three surveyors instead of one; it trebles the expense to begin with, and does not give satisfaction, because it is well known, particularly in the locality where A. or B. are the general umpires, as was in former Inclosure Acts very common, that the umpire often goes with the surveyor who most patronizes him. If A. and B. are referees, who nominate C. as the umpire, to-morrow B. and C. will nominate A. as the umpire, and they will ring the changes in that way; they calculate the decision to a fraction, as they do upon the tables, and you never get a fair judgment from them. Again, with regard to the Church in a question of buying and selling or renewing, it is not merely the lessee who is concerned; the lessee comes from the public; the public and the Church are the two bodies concerned; if the Church names one the public names another, and the umpire must come from the public too, and therefore it is two to one against the Church. It is impossible to choose your umpire except from a class belonging to the public, and that opens the question of official referees. Official referees do not give satisfaction; people do not like to make a blind bargain; a man says, "If I can name my own man I know what I am about; I can talk with him, and he knows what I want; an official man will not give me as much or what I want, because he has to take other matters into consideration."

442. What is the substitute that you would suggest?—I think you ought to have an efficient board, with their own agents. Those boards and agents, as I may truly say with regard to the Ecclesiastical Commissioners, are responsible to Parliament and the public, the agents as much as the Board; and I think that that is the best way of having the price fixed. I have found by experience, with regard to the fee simple value, on the agents of the Commissioners going to meet respectable surveyors in the locality there is rarely any difference between them that they cannot adjust; but if there were a difference then there ought to be every facility to the agents of the lessee or the purchaser, as the case might be,

be, to come to the Board, and to say, "Your agent has put too much value upon the property." *J. M. White, Esq.* 9th March 1849.

443. Then is your remedy, that there should be good access to a competent board to hear objections raised against the report of their own surveyor?—Yes. I would have the board so constituted, whether one, two, or three, that they should represent the mutual interests of the different parties.

444. And that they should be considered in that matter as acting judicially?—Yes, exactly so. We have it in the Tithe Commission, the Inclosure Commission, and Copyhold Commission, and nothing can work better.

445. Is not that actually the constitution of a dean and chapter?—There is this difference, a dean and chapter are not responsible to the public as a public board would be.

446. But are they not responsible to their own pockets?—Yes; but it is a responsibility in their own favour which would not be the case of a public board. In the Inclosure Commission they adopt this plan: they have a valuer if there is no legal question. If any legal question arises they give him an assessor, and if the party is dissatisfied with his decision then there is an appeal to a legal assistant commissioner, not the assessor, who hears all the parties and acts judicially, and there is an appeal to the Courts of Law from that. I happen to be employed as solicitor to the Inclosure Commission in a case which came under my notice the other day, where, after they had gone through all those parties to whom I have referred, they have now gone to a Court of Law. I beg to be understood as having spoken my own opinions, since those of my colleague may perhaps not entirely coincide with mine.

Friday, 23d March 1849.

JOHN MEADOWS WHITE Esq. further examined. *J. M. White, Esq.* 23d March 1849.

447. HAVE you any further statement that you wish to offer?—There was one point which I am desirous of putting before the Commissioners, with reference to the Mining and Leasing Act of the 5th and 6th Victoria, chapter 108; that Act is very much evaded, or I should rather say not used, by parties who grant licences from year to year to work mines. I am now more particularly alluding to Cornwall, where they grant licences instead of applying for a lease. Where a lease of mines belonging to the Church is applied for according to that Act of Parliament a proportion, not being less than a moiety, of the royalties, must be reserved for the use of the Ecclesiastical Commissioners. When licences are granted, which is the exercise of a very doubtful power, and one which I should venture to say could scarcely be sustained at law, the whole royalty is absorbed by the party granting the licence. I have reason to believe that this practice is general, not only with the dignitaries in the south-west of England, but with incumbents also.

448. Those licences are granted, are they not, only to work those mines which are already open?—No; both the working and opening of mines depends a great deal upon the custom; but they do not scruple even to open mines.

449. Are you aware that it is not legal for a tenant for life to open fresh mines?—I think certainly not.

450. Are licences granted them to do that which is partly legal and partly that which is not legal?—The fact is, that the lessees get the leave of the incumbent, and the incumbent is only answerable to the patron. I have in my recollection one case, where, happening to hear of it, I gave notice to the several parties concerned in Cornwall. Some of the parties were desirous of having a lease, but the patron interposed, and claimed to take a share with the incumbent in the royalty. I mention these as cases where the legislature intended that the Ecclesiastical Commissioners, as trustees for the Church, should have a benefit, which they do not secure under the system of licences.

451. But which is not only secured to them by an evasion of the law, which no law could prevent from arising. Is not that so?—Nothing but an Act of Parliament.

452. It is only partly an evasion of the law, is it?—Yes.

453. They work mines partly open, that is legal; and further than that, they proceed to open fresh mines, which is not legal?—Yes.

454. Has not the law prevented it as far as it can?—I think the law might find a remedy, by declaring that no mines should be worked except under that Act.

455. You mean that we could recommend that such an enactment should be passed?—Yes.

456. Would you put the working of old mines on the same footing as the opening of new ones?—As regards the incumbent I would, because they are working the corpus and using it.

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457. Under the Act of Parliament there is a certain proportion of the proceeds to be paid over to the Ecclesiastical Commissioners?—Yes.

458. But when they grant a licence they pay nothing over?—Certainly not.

459. Do you consider that the granting of a licence in cases where mines are already open is not illegal?—It depends a great deal upon the custom. With regard to licences they are very useful in many districts, because they are tentative, and the persons taking them are not bound to work for any length of time, but only like a tenancy from year to year. The parties to whom I refer do not avail themselves of the power which the legislature has given by this Act; it is clearly an evasion of the law.

460. Do you think you would restore the law to what was intended by that Act if you made a certain proportion of the proceeds payable when got under licence?—Yes; and there would be no difficulty under licence. When licences are used bonâ fide no proportion should go to the Commissioners, because no profit would, in fact, be realized. It might readily be made the subject of equitable arrangement.

461. At present in working old mines, the incumbent, without being forbidden by the law, enjoys the whole advantages of the annual workings?—He is forbidden by the law, but he has no one to put the law in force against him.

462. Is that the case with regard to old workings?—It is very difficult to know what old workings are; and there is another difficulty in the case. There are a great many mines which would now be called old workings, which have become customary workings, simply because no one can call the incumbent to account for waste, at least no one can do it but the patron, and if the patron does not call the incumbent to account, of course the latter takes the benefit to himself.

463. Is it not the law that all tenants for life may work any mine they found open?—Yes.

464. If such be the case, any law which should provide that half the result of those workings only should go to the incumbent would be a deprivation of so much of what has hitherto been considered the incumbent's rights, would it not?—It would be legalizing the half, and sacrificing the other half in order to make him do that legally which he does now illegally.

465. But with regard to old workings is it not legal?—I draw a distinction between a tenant for life and incumbents; incumbents are only part of a corporation, they are not tenants for life, and that distinction is often overlooked.

466. Do you say they are not tenants for life?—Yes; incumbents are not. They have the possession of the fee during the whole of the incumbency, but subject to the restrictions of the ecclesiastical statutes.

467. In some respects have they not more than a life interest, and in some less?—Yes, that is so.

468. Do you mean that it is terminable otherwise than by death?—Yes; it is a limited fee, or rather a conditional one.

469. Do you consider an enactment of the kind to which you have referred would not encroach on the real rights of any existing incumbent?—I think not, as far as I can understand it.

470. What do you do with the money when you get it? How would you invest the money that comes from mines?—The ordinary mode of investing is to invest the principal. The royalties therefore ought to be invested, and the interest only taken for use.

471. Is that the mode in which the half, which the law prescribes to be given to the Commissioners, is now invested?—I do not know. I am not aware of what their receipts have been. The secretary will probably state that.

472. Have you ever considered this question, whether the half that you would leave the incumbent should not be considered as the corpus, and invested for the benefit of the living?—There would be no doubt, if it were a new question, of the justice of requiring this.

473. Do you think it would be unjust to incumbents not now existing if you were to declare, in all future incumbencies, that was to be invested as a corpus?—There would be no injustice in that, except as it would interfere with the value of the patronage, and that might be secured.

474. Can you give us some information upon the point connected with the mines of Wolverhampton?—In that instance the mines are worked under a local Act, obtained for the purpose by the Dean of Windsor in the year 1811. Upon commuting the interest there of the sacrist, it was found that he was entitled out of the proceeds of these mines to the extent of one fourth, which were to be invested until they should accrue to the amount of 8,000*l.* for the benefit of the sacrist, who was incumbent of Wolverhampton. By an Act of Parliament obtained last year the Commissioners have arranged with him, and all the mines now belong to them. Those mines are producing now perhaps from 1,600*l.* to 2,000*l.* a year, and they will for the present go far to enable the Commissioners to make an augmentation at Wolverhampton; and the Commissioners have taken into account that they have a large quantity of dormant property there, which, as a matter of account, is charged with the present advances out of the mines.

475. Have

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475. Have they appropriated the annual proceeds of these mines as a permanent endowment of the incumbent at Wolverhampton?—They have not specifically appropriated the money from the mines; they have made a permanent endowment on the strength of the Wolverhampton property generally, and the income of that Wolverhampton property at present consists chiefly from the mines; but there is a very large mass of property, which at present is not realized, in houses and lands, and therefore in taking the whole account the mines are not relied upon as the sole means of the augmentation, but the income from them is used as a temporary convenience.

476. Do you think if the mines were worked out there would be property remaining sufficient to secure the endowment?—Yes, certainly. That has been matter of calculation, and was taken specifically into account at the time the Wolverhampton augmentation was considered. There was also a very careful survey made of the mines, and it was ascertained how long they were likely to last.

477. And how long was that?—As far as the calculation goes by the mining agents, some of them forty or fifty years, and some of them more. These are mines in fee, and the Commissioners have a right to apply them as they think fit. They were so applied under the Act by the late Dean of Windsor, subject to the fourth appropriated to the sacrist.

478. But supposing there had been no other property besides the mines, would the endowments have stood good for more than the forty or fifty years?—Under such circumstances the endowments could not have been made.

479. Might they not have been made if you had appropriated the whole of the immediate proceeds of the mines?—No. In making the endowments that was taken into account, but the general property was relied upon.

480. In any other case where there was no other property but mines, or if in this particular case there had been no other property but mines, would an endowment have lasted for more than the forty or fifty years, the period at which the mines were calculated as likely to last?—It is quite clear in such a case the endowments must have been made on the basis of capitalizing the royalty.

481. Except in this particular case has the fugacious nature of this property been taken into account before it was made the basis of the particular endowments?—I should think the proceeds of mines under the Leasing Act must be very small at present, and could not be taken into account yet.

482. But if they should become considerable, is it not a question that must be looked at?—Yes, certainly. Under the Leasing Act the incumbent takes a proportion of the royalty. There is such a proportion not being less than a moiety which goes to the Commissioners; the remainder is divided between the incumbent and the lessee, or the parties whoever they may be, the adventurers paying the royalty; the incumbent takes the remainder, so that the Act then sanctions the appropriation by the incumbent for the time being of that portion of the royalty. If one may put a construction upon the Act, and conjecture the reasons for passing it, it was probably considered that the moiety secured under the Leasing Act was for the purpose of investment.

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483. Are you the secretary to the Ecclesiastical Commissioners for England?—I am treasurer and secretary.

484. You have been in those capacities from the beginning of the Commission, have you not?—I have.

485. Will you state the course which the Commissioners have pursued in dealing with the property which has fallen into their hands, and the principles on which they have been guided?—The Act of 1840 vested in the Commissioners the whole of the prebendal estates and the separate estates held by deans and canons. The Act pointed out no particular mode of dealing with that property; the bulk of it was upon leases for lives and for years, and at the time when the property came to the Commissioners there was very little in hand. The Commissioners took an early opportunity of deliberating as to the proper mode of dealing with that property which was upon lease; their first step was to obtain the opinion of the law officers of the Crown as to what their powers were. The opinion given by the law officers was, that they had the same power of leasing the property as the original ecclesiastical owners had. The Commissioners were of opinion that this was not a provident mode of dealing with the property, and they considered that one of the intentions of the legislature, in vesting the property in them, was to enable them to improve upon the old system of management. They came to a resolution in 1841 that they would not renew the leases upon fines in any case; but they coupled with that another resolution, that they would in no case sell or let the property over the heads of the lessees. For some time no other steps were taken as to dealing with the property, and the leases were allowed to run on. In 1843 an Act passed, the 6th and 7th Victoria, chapter 37., by which (§ 6.) the Commissioners were empowered to deal with the whole of the property in their hands in any way in which any absolute owner of property might deal; they might either sell

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sell the reversions or purchase leasehold interests; or they might renew if they pleased (for the Act contemplated the possibility of their renewing); in fact they were authorized to deal with the property in any mode which they might consider most expedient. There had been from the first a very strong feeling in the Commission that it was not desirable to sell reversions, on the generally admitted ground that it is improvident to sell reversionary interests at the market price; but in 1845, after much further deliberation and divers communications between individual members of the Commission and some of the parties who represented the interests of the lessees, the Board passed the resolutions which appear in the Commissioners' First Report to the Queen, as the resolutions for regulating the mode of dealing with the whole of the leasehold property under their control. The substance of these resolutions is, that the lessees shall have the option of buying the reversion, unless in any case where the Commissioners see any special reason against selling the property; that the sale shall be made upon the principle of calculating, first, the whole value of the fee of the property as if it were in hand, and secondly, the value of the leasehold interest; then deducting the latter value from the value of the fee, and fixing the difference as the price of the reversion; and further, that if the Commissioners refuse to sell, or if the lessee decline to buy, the Commissioners shall be bound in every case to purchase the leasehold interest at the market value, if the lessee choose to sell it.

486. There was not then the same power of refusing for special cause?—No. The Commissioners reserved to themselves no power of refusing to buy the leasehold interest at the market value; and they founded that resolution upon the conviction, that they might arrive at pretty nearly the same financial result by purchasing in any case the leasehold interest for the dry market value that they would arrive at by selling the reversion on the terms which I have explained; because the result would be the same, whether they produced an estate in hand instead of in reversion, by purchasing the leasehold interest, or whether they gave the lessee the whole fee by selling the reversion,—selling and buying as they determined to do, on such terms as to give to the lessee merely the market value of his leasehold term,—and securing to themselves, either in kind or in money, the whole value of the fee, minus that leasehold term. The result financially was the same; they declined to buy or sell except upon terms which secured to the Commission the dormant value of the property as well as the full present value.

487. Is there anything in the resolution, or any where else, which shows, when you use the phrase "the market value," or whenever that phrase was used, it was meant to apply to the market value of that day when the phrase was used, or any other market value at any other distant time?—The seventh resolution is this: "That whether the Commissioners for any special reasons decline to sell, or the lessee decline to purchase, the reversion, the Commissioners shall hold themselves prepared in any case to purchase the leasehold interest at its market price, if the lessee be willing to sell the same."

488. Do you understand the "market price" is the "market price" at the time of passing that resolution?—No; I apprehend the market price here mentioned would be the market price at the time of negotiating, whenever that might be.

489. You think it was not a market price stipulated for particularly by the Ecclesiastical Commission?—Certainly not.

490. When the Commissioners say "market price," did they mean, according to the obvious sense of those words, such a price as could be obtained in the market; or did they mean a market price established by the calculations of scientific people, and published in a table?—My answer to that question would be this: that the Commissioners felt that in ascertaining the market price, or the proper price to be estimated as the value of the leasehold interest, they were bound to employ their surveyors and their actuaries; that they were not themselves to enter into the calculations, but it was their duty in each particular case to submit to some competent authority the questions, what is the value of the fee, and what is value of the leasehold interest. It was not for them to determine as to the mode by which their professional advisers should arrive at the result; they confided in their surveyors to tell them the annual value of the property, and to estimate the value of the fee, as if the estate was in possession; they then referred it to their actuary to determine what was the market value of the lessee's interest.

491. Was that, as you imagine, the way a trustee would be entitled, and called upon to act, in a similar case?—I conceive so; the Commissioners considered themselves as trustees, and that it was not for them to enter into these calculations, but to confide in professional persons to give them the required results.

492. That mode of proceeding being adopted, is it not quite clear "the market value," as meaning the number of years purchase in any particular district which would be given for Church property, did not enter into consideration at all. The actuaries did not go to that; they did not say, "In Northumberland so much is given, in Sussex so much," but they took some general average value they got from their books?—I apprehend they would be governed by some general rule, and not by the particular market value of the locality.

493. You do not imagine they would take into consideration the terms of renewal which had existed in particular districts?—No, I think not; and for this reason: we know that the lessees have been allowed different rates of interest in making their renewals in different

different parts of the country, and under different ecclesiastical corporations. In the North of England in many cases the lessees have been allowed as much as nine per cent. on their investment in fines, in other cases they have been allowed seven, and in some cases five per cent. is the rate upon which the computations have been based.

494. Do you know of your own knowledge what rate of interest was allowed in valuing the leasehold interests?—That has varied; land and tithes and houses were differently valued.

495. The number of years purchase would vary according to the undeveloped value as well as the actual rental, would it not?—I apprehend it would.

496. Would the surveyor give the actuary the means of ascertaining that?—The surveyor in all cases fixes the annual value and also the value of the fee; for instance, he would give the value of the fee in land, probably, at thirty years; the value in tithe at from twenty-two to twenty-five years; the value in houses varying from twelve to sixteen or eighteen years purchase. In sending a case to an actuary those values would be stated to him in order to govern him in his opinion as to the leasehold value.

497. Supposing an estate was worth 1,000*l.* a year and nothing more, it would be easy for the actuary, of course, to calculate the value of the reversion of such an interest; but supposing there was capable of being produced a dormant value by improvement of any kind of which the tenant could not avail himself, at any rate not immediately; in what way would the actuary take that improvable value into his consideration?—The actuary would calculate only upon the present value of the property; he would give the value of the lessee's interest according to the present annual value of the property at the market value of the fee in its unimproved state. But the Commissioners would have before them, on the report of the surveyor, the fact of its being capable of improvement by inclosure, drainage, building, or in some other way; and in considering the question of selling the estate they would have reference to that circumstance, and they would either say, This improvable value is probably so considerable, but so difficult to estimate now, that this forms a special reason against selling the estate at all; and they would then, upon that special reason which is provided for by the resolution, refuse to sell; or they would, as they have done in some cases, act upon the opinion of the surveyors as to the propriety of adding a certain number of years purchase to the fee, and then they would deduct from the increased value of the fee the dry value of the leasehold interest, and fix the difference as the price of the reversion.

498. Do you mean that the Commissioners would add, out of the surveyor's report, a sum equivalent to the improvable value?—Yes.

499. The improvable value would not come into the actuary's calculation?—It would not; it would come into the calculation of the surveyor, and the Commissioners would or not act upon it as they thought fit; they would either sell the estate with the estimated addition to it, or they would decline selling for the special reason of the doubt as to extent of the improvable value.

500. Would you consider the lessee as having any title to any share of the improvable value which he could not obtain during the time of his holding it?—The Commissioners have considered themselves bound as trustees to look upon the future possible improvement as the sole property of the Church.

501. Having a dormant value, they exact that value from the purchaser as far as they can when dealing with him?—Yes.

502. They cannot put themselves in a position to treat with the purchaser, taking full advantage of the dormant value, without the previous concurrence of the lessee in putting them in possession; supposing a lease on land, and there is a dormant value, the lessors cannot treat on the foundation of that dormant value with the purchaser without they have previously got the consent of the lessee to give up his interest; is not that so?—Of course the Commissioners have no power to take immediate advantage of the improvable value without the concurrence of the lessee.

503. If they are to be put in a position to profit by the improvable value of the estate, whether they deal with the lessee or with a third person, he must, before that improvable value comes into their hands to enable them to profit by it, first have given up his whole interest in the land?—As long as he holds his leasehold interest, and declines to concur in the Commissioners terms, he can of course prevent their taking advantage of the improvable value.

504. When the dormant value was valued by the Commissioners to the lessee, they valued it as if they were themselves in immediate possession of such value, did they not?—Yes.

505. Making no allowance for the postponed enjoyment of that dormant value which the tenure of the lessee set up against them?—Precisely so; and the reason why they did so is this: supposing that the lessee were to come into their terms, and he were to say, "I "will give you the difference between the market value of my present leasehold interest "and the value of the fee as if in hand, capable as it is of improvement;"—supposing that property worth thirty years purchase in its present unimproved state, but equivalent to thirty-three years purchase in its improved state, if the lessee had said, "I will not only "give

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" give the difference between my leasehold interest and the thirty years purchase in its " unimproved state, but in consideration of its improvable character I will give the addi- " tional three years," the Commissioners felt that they were justified in asking and taking that price, because the lessee, having purchased on those terms, might immediately go into the market and reimburse himself by selling the estate at the same improved value.

506. In fact it was worth that to the lessee?—Yes; by bringing the fee into possession he was enabled immediately to deal with it as an estate capable of being at once sold for its full value.

507. After all, if he resold it he only could get the bare market value of his lease?—Precisely so; he could only get back the money he had paid, plus the market value of his lease. After all, the real question at issue is the sum estimated and allowed as the market value of the leasehold interest.

508. You get something through the concurrence of the lessee which you could not have got if he had not concurred, and you allow him nothing for it; is not that the case?—That is certainly the case as far as the mere pecuniary question is concerned.

509. It is considered to be worth his while, because he can recover himself by replacing his investment at once?—There have been cases where, the lessee having objected to the terms of the Commissioners, a further negotiation has taken place, and has ended in the Commissioners making some concession.

510. Do you imagine that the party desirous of purchasing in these cases is not merely desirous of purchasing as a mercantile investment, but that he has a special reason for desiring to be in possession of a particular estate?—Yes.

511. And is it that which makes it worth his while to give its real full value?—Precisely so. The Commissioners have had that principle in view from the first, that they are not bound to sell on such terms as would give the purchaser a pecuniary advantage from his investment; but the object was to accommodate those lessees who were desirous of becoming purchasers in fee of estates of which they had been long in possession under renewals.

512. Did they regard it as a favour asked by the lessee?—Precisely. That was the ground on which they passed these resolutions.

513. And did they make any profit by it?—They did not intend to give the lessee any profit.

514. Did the Commissioners make no profit themselves?—They intended to get no more to themselves for the purposes of their trust than the clear value of the property to the Church, minus the interest possessed by the lessee. The reason why they refused to sell the reversion at first was, because the sale of a reversion at the market value is clearly improvident, and would have lost to the Church permanently a considerable portion of the whole value of the property. As soon as they had adopted a mode by which they could obtain that value which is dormant under the present system of tenure, and is lost both to the lessor and the lessee, they then said, " We will sell the fee for your accommodation, " but we will only sell it on these terms."

515. Not looking upon themselves as parties desirous of selling, but of doing a favour to other parties for specific reasons?—It was supposed at the date of the resolutions that they were conferring a boon upon the lessees.

516. And they did them that favour on terms such as enabled the parties, if they pleased, to dispose of the property afterwards and not lose by the bargain?—Exactly so.

517. Being on the same footing as before in a pecuniary point of view, the parties purchasing gained, over and above, the possession of estates to which they were attached?—Just so; they acquired the freehold.

518. It was not intended, was it, to give pecuniary advantage to the owners of land generally, but the ownership of the fee, in cases where the parties had peculiar attachment to their estate?—The Commissioners felt they had no right as trustees to concede any pecuniary advantage.

519. Are you not aware that the Commissioners who made that rule did overlook the fact, that before they could proceed to deal with the estate as a fee simple *in presenti*, they must get something done by the lessee, and that he must be a concurrent party?—No, they did not overlook the fact; they were conscious of that from the first; but they started with this conviction, that if the lessee did not choose to treat with them, they, as a permanent body, could afford to run out the lease.

520. At the time they are to be put in a position to deal with the whole value of this property they cannot be put in such a position without the lessee doing something concurring. Are you not aware that that had been overlooked when the rule was laid down?—Except as far as that question applies to improvements I cannot see its application. I admit that the tenure of the property is a bar to improvement. I know cases where, in the neighbourhood of London, very large improvements would take place in the value of the property by the extension of building, where, in consequence of the lessees not coming into the terms of the Commissioners, either to purchase the reversion or to sell their leasehold interest on the calculations which they have adopted, that improvement is barred; and in such cases I think it would be highly desirable that there should be a meeting half way, or at least

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a concession to a certain extent on the part of the Commissioners to the lessee, in order that they might bring the property into an improvable condition, sharing in some proportion between the Commissioners and the lessees the additional rental which would be acquired.

521. Is there not a difference in the cases of there being no dormant value and there being a dormant value? When there is no dormant value then is it not clear the Commissioners have no particular interest in parting with the fee; when there is a dormant value they are parties who have something which those who desire to buy ought to pay for if it is worth their while?—There is *dormant* value in all cases of beneficial leases, the value of the leasehold interest and the value of the reversion together not being equal to the value of the estate if in possession. There may also be a definite *improvable* value in addition.

522. Do different principles apply to one and the other?—I think so.

523. With regard to improvable value, has the Church a direct interest in stimulating the sale and paying something to come into the possession of that?—The church has a pecuniary interest in obtaining early possession of all leasehold property.

524. Having told us of these resolutions, perhaps you will proceed with your general statement?—These resolutions were passed on the 15th of April 1845.

525. On the principles conveyed in those resolutions have the Commissioners since proceeded?—Yes.

526. Can you tell us the extent and amount of transactions, and the nature of the transactions, that have gone on under them?—The result of their sales and purchases under those resolutions up to the present time is somewhat remarkable. They have *purchased* leasehold interests in land, tithes, and mixed properties to the amount of a net rental of 7,305*l.* 8*s.* 1*d.*, at the price of 90,484*l.* 12*s.*, but of that rental 314*l.* 11*s.* 4*d.* was already in their possession as the reserved rents of those properties. In order to arrive at the result of those purchases it is necessary to discount those reserved rents, and to add their total present value for the assumed term of the leaseholds, which we take at fourteen years purchase, to the sum paid for the leasehold interests. The sum so added is 4,403*l.* 18*s.* 8*d.*, and that makes the total purchase money for the leasehold interests 94,888*l.* 10*s.* 8*d.*

527. For a rental of 7,000*l.*?—In round numbers, 7,300*l.*

528. You pay 90,000*l.* in round numbers; when would you have got the 7,000*l.* a year if you had not paid the 90,000*l.* at all?—Allow me to go through my calculation. The Commissioners have *sold* property the net annual value of which amounts to 6,358*l.* 12*s.* 4*d.*, the purchase money in respect of which is 97,213*l.* 14*s.* 8*d.*; but again discounting the reserved rents (249*l.* 15*s.* 4*d.*) at fourteen years purchase, and deducting 3,496*l.* 14*s.* 8*d.* as their present value, that reduces the proceeds of the sales to 93,717*l.*

529. In round numbers, they have sold the same as they have purchased?—In round numbers, they have paid as much for purchases as they have received by sales, and they have acquired, say, four sevenths of the whole net annual value of the property which is the subject of those sales and purchases; that is to say, they have acquired in present available income one half of the whole net rental of the properties, *plus* enough to pay the expenses and costs of management; and, therefore, the result is, that they have got into possession one half of the whole net annual value of the property; which is at least double the amount that the late possessors of that property ever obtained from it. Therefore, as far as the experience of the Commissioners goes in this mode of dealing with the property, namely, on the one hand selling reversions on these terms, and on the other, with the proceeds of those reversions purchasing leasehold interests, they acquire a clear half of the net rental of the whole property. The result, as nearly as possible, in this case is, that you part with half the property which you hold in reversion in order to acquire in possession the other half.

530. In what does that other half remain, does it remain in rack rent?—It is never again leased on fines.

531. You have got the rental now of 7,305*l.*?—Yes.

532. Is that a rack rental?—Some of those estates are leased again for years; we occasionally grant leases for twenty-one years.

533. How do you value so as to show that you get 7,305*l.* a year?—All those properties are now tenanted; they are held at rents, either on leases or from year to year.

534. That 7,300*l.* a year consists of reserved rents and all, does it?—That comprises only the rack rents.

535. The rents paid by tenants at rack rents?—By tenants holding on different tenures.

536. But is it in such a shape that you receive net 7,305*l.*?—Yes; thereabouts.

537. If the tenants all pay?—Yes; it is subject to that contingency; but there are no houses among these purchases, and the tithes are all commuted.

538. Do you practically receive 7,305*l.* a year every year?—Precisely so.

539. Without subtraction for management or repairs?—Not without subtraction for charges of management or repairs; but then, in my calculation of having acquired half the full

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full value, I have made an allowance for that, because I find the result is, that we have about four sevenths of the whole annual value.

540. Have you allowed one fourteenth for management?—I have allowed, I believe, an ample margin for management.

541. Of the whole property?—Yes.

542. Is 1,900*l.* one sum in your rent-book?—That is the rental of certain land.

543. Whether you receive it or not depends on whether you are paid?—Subject to that contingency.

544. In the result you have come to as a conclusion from the whole, have you made an allowance for management and loss?—Yes.

545. Will you state the general impression of the result, as to what the profit or advantage has been from this mode of dealing?—My general impression of the result is, that whereas under the old system of leasing upon fines the prebendaries who held this property never realized more than one fourth of the whole annual value, and in many cases not so much, we have acquired a clear half of its whole annual value.

546. Have you acquired a half even, allowing for the cost of management?—Yes.

547. You have been dealing with a property of about 13,000*l.* a year; you have spent 90,000*l.*, you have received 90,000*l.*, and you remain in possession of one half of the 13,000*l.*, whereas before they only got one fourth by the system of fining; is not that the result?—Yes; the Church only got one fourth at the most. The general result of the calculation is as you have stated it. But this applies only to a small portion of the property; how it may bear upon the whole is another question.

548. Do you imagine there is anything in the peculiar circumstances of the cases you have mentioned which would make them not fair samples of church property similarly treated?—I know nothing peculiar in these cases which would take them out of the general category. I think it is a very fair mode of estimating, as far as I can at present see, what the general result would be; but then, I must add, that there are cases not coming under either of these heads of purchase and sale, where the Commissioners have declined to sell on account of the improvable value. And these reservations must, of course, ultimately tend to increase the proportion of value secured by this system of dealing with the estates.

549. Would it not be very well worth while for the Commissioners as trustees, as it would be worth while of any individuals, to make some sacrifice for the purpose of getting to an immediate development, or, at an early period, the improved value of the estate?—I think so. I ought also to add that in one of the properties included in my statement, where the Commissioners have purchased the leasehold interest at the dry market value founded upon the present rental of the property, they have reason to believe that there will be an immediate and very considerable addition to the value. The Commissioners believe there they will in a very short time nearly double the annual value of that property.

550. Did you not state you had re-let some of the property on terms of years?—Yes.

551. Was that upon consideration that such a mode of letting church land, if upon proper terms, was in itself desirable?—I cannot say that question has yet been fully entered into. In a few cases in which the Commissioners have so let property upon twenty-one years leases it was part of the understanding when the Commissioners purchased the life-hold interests that they should grant new leases for years. We have never leased upon fines, but always at a rack rent. The Commissioners negatived, by the resolutions to which I have referred, all renewals upon fines.

552. Is this property to which you have been referring all on rack rent?—It is all rack rent.

553. How is it managed?—It is managed by local agents. The Commissioners have in many cases employed the chapter clerk or the bishop's secretary as their local agent.

554. What proportion does this sum you have been speaking of bear to the whole revenue of the Ecclesiastical Commission?—Of their present income about one sixth.

555. In what way do the Commissioners derive the other five sixths?—Chiefly from chapters.

556. In what way does that come into their hands, as they do not take fines?—They receive a portion of the divisible corporate revenues of the several chapters in respect of the canonries suspended under the Cathedral Acts.

557. Do those chapters continue to renew?—They have still the power to manage and let their estates precisely on the same footing as before, without any power of interference on the part of the Commissioners.

558. In respect of such corporate estates are the Commissioners merely in the position of representing so many canons?—Precisely so, but without any voice in the management.

559. But entitled to a portion of the revenues?—Yes.

560. And that portion is, what share of the whole; five sixths of the whole revenue?—That, and the reserved rents of other property on lease, and some estates on hand, amount to somewhere about 45,000*l.* a year, the whole together.

561. Have

561. Have you a statement of the distinct sources of revenue, and their amounts?—In round numbers,—

Suspended canonries - -	- £27,000
Separate estates - -	- 13,000
Sinecure rectories - -	- 5,000
	45,000

562. Does that include what the Commissioners have under Sir Robert Peel's Act?—No. In fact they have no income under Sir Robert Peel's Act. It is a mere loan of stock, the whole dividends of which the Commissioners are liable to pay to the Bounty Board; so that as the stock diminishes there is an increasing charge upon their general income.

563. Are the Commissioners entitled to use the income of a portion of that?—They are entitled to sell out and use the stock, and without the use of that stock they might find it difficult to carry out the arrangements as to the sales and purchases of estates; because, although it so happens accidentally that the amount of money received by sales up to the present time is about the same as the amount paid for purchases, yet the purchases might have been going on at a time when the Commissioners had not received money from sales, and might again do so; and then they must dip from time to time into that stock, and replace it by the purchase monies received from their subsequent sales.

564. Do you mean that these two sums only happen to coincide at that given period?—Yes.

565. If you had been in a position to deal with the whole 45,000*l.* as you have dealt with about 13,000*l.* of it, would you be now in the possession of income of nearer 90,000*l.* than 45,000*l.*?—The answer to that question requires much consideration.

566. You say before the Commissioners began to deal in this manner the parties had a quarter; after they so dealt they got possession of half, doubling the income the parties previously got. If the Commissioners had been able to deal with the whole of their property in the same way they have dealt with a portion, by which they have raised that to half instead of a quarter, would not the same proportionate result have arisen as to the whole?—Certainly, if the lessees had been willing to buy and to sell in the same manner. But this answer assumes the same tenure of property and the same system of management by the chapters as to their corporate property as was adopted by the prebendaries with reference to their separate property.

567. Am I right in supposing the leases are all on lives in the case of a single prebend?—They are chiefly so.

568. That is not so with respect to the chapters, is it?—No.

569. Taking that point into consideration, the result would not be quite as favourable, would it?—I believe that on an average leases for years do not produce to the Church more than one fourth of the actual value.

570. You have not so much to gain by putting yourselves into possession of a well-managed estate as into the possession of an ill-managed estate?—Certainly not; and, assuming the chapters to manage their property better than the prebendaries did, the Church would not gain so much by changing the system of management. But, confining my answer to the prebendal property, assuming the statement I have made to be a fair specimen of the result which would follow on the application of the Commissioners system to the whole of that property, the proceeds heretofore received by the Church would be at least doubled; and one may infer, from the lessees having fallen into the Commissioners system, so many having purchased at their prices and so many others having sold at their prices, that those at least with whom the Commissioners have dealt have not been greatly aggrieved.

571. Have many refused?—Several have refused; but some of these have subsequently come to our terms.

572. Since last year you have found no increased disinclination to purchase, have you?—Rather on the contrary.

573. Have you stated the whole of the property that is in the hands of the Commission?—About 45,000*l.* in present income.

574. Has any of this property you have sold or bought been what you would call "improvable" property?—A portion of what we have bought is capable of very great improvement.

575. You have not sold improvable property, have you?—Some such property has been sold, but we have not in any case lost sight of the capability of improvement, or failed to obtain the estimated improvable value.

576. Is it considered part of the duty of the surveyor always to report upon the probable dormant or improvable value?—Undoubtedly.

577. Has all this property been dealt with on the principle laid down by the resolutions?—I may say all has been dealt with on the principle of the resolutions. But that answer must be qualified in this way, that in some cases where we have found a difficulty in estimating

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mating the improvable value, and have declined to sell for that special reason, we have been open to an offer from the lessee of such a price as would cover the objection.

578. Are the valuations in these cases conducted by the Commissioners own valuer?—Always.

579. There has no great complaint, at all events, been made about that, has there?—Here and there an objection was taken on that ground, but substantially there has been no material complaint. In fact, I believe, in every case in which there has been any hesitation on the part of the lessees to give the price the Commissioners have asked, they have agreed in the general accuracy of the surveyor's report, and have not questioned the annual value, except in some few cases. The question in dispute between the Commissioners and the lessees has generally turned upon the value put on the leasehold interest by the actuary.

580. Have you any general opinion on the expediency of increasing the reserved rent acquired from your experience?—I have read a great deal on the subject and talked the matter over a great deal with others, but I honestly confess I have yet not been able to form any clear opinion as to the sort of change that it may be desirable to make in the mode of dealing with this property. There is one alteration which I think ought to be made in the resolutions of the Commissioners; viz. that the sale should be made the exception instead of making it the rule. I think the Commissioners ought not to be compelled to sell, except upon some special ground, and then only if the sale is advantageous to the Church; with regard to that property which they do not sell, as to what alteration should be made in the present tenure of it, I have not yet been able to make up my mind upon any of the various plans which have been suggested. But if renewals on fines are to continue, and we could arrive at some mode of dealing between the Church and the lessees which should gradually increase the rent reserved up to one half of the whole rental, that perhaps might be desirable.

581. You would not confine the case of sales, would you, to the case of accommodation land or other land that had improvable qualities; but when you get a large sum do you still continue to sell?—The practice already adopted of purchasing and selling appears to me to work well, provided the discretion as to selling is left entirely with the Commissioners. I see no objection to bind the Commissioners to buy the lessee's interest in all cases; the Commissioners may very safely hold themselves bound to buy in every case the leasehold interest, provided they buy upon the terms which have been hitherto adopted.

573. Where is the fund to come from, if such were to be the case at the first period of the Commission; should you say that it might be borrowed?—That would be a question certainly for consideration. If we ceased to sell in the same proportion as we bought, there must be a fund for the purpose of buying, but then that fund would only be required for a time during the transition state.

583. How many years do you consider you are talking about when you say temporary, or during the transition state? Should you say ten years?—At present we want a very small sum, and I am inclined to think that the advance of a few hundred thousand pounds would go far towards enabling us to provide for the transition state, even with the whole property of the Church.

584. Do you mean by buying and selling?—Yes; suppose we adopted the present system of buying and selling, they would probably be so nearly equal that we should want a very small sum to dip into.

585. Would not that ultimately leave a smaller property belonging to the Church in fee?—If the statement I have presented is a fair specimen of the working of the system, it would diminish the property by nearly one half.

586. Ultimately the Church would be only in possession of one half?—One half of the estates.

587. Not one half in value but one half in space?—Exactly so.

588. You diminish the quantity of that which has, in the course of time, with increasing industry and population, acquired an unknown value almost?—But it must be borne in mind that we have reserved by these resolutions a right of holding that which is considered most capable of improvement.

589. Is it possible to anticipate in this country what land will and what will not obtain a contingent value arising from the possibility of railroads and the discovery of springs and minerals?—Perhaps not; but that is an argument that would militate against the sale of any church lands.

590. Would it be practicable to have any law which could compel the conversion of leases for lives into leases for years?—It would be easy enough to carry such a law into execution, if it could be obtained; you could easily find the equivalent term.

591. Might it be done all at once or gradually?—One plan would be, upon the dropping of each life, to add a term to the remaining two lives, and if the estates so dealt with were in possession of any dignitary, he must be paid the difference, if any, between the fine on a life added and the fine on a term of years added.

592. Or to grant a term of years equivalent to the calculated value of the additional life?—Yes; and of course in that case no transition fund would be required.

593. Is

593. Is there any considerable amount of property on which the Commissioners have refused to renew?—Yes; there is a considerable amount of property on which the Commissioners have refused to renew or sell.

594. On what ground have they usually refused?—The Commissioners have refused to renew in all cases. There have been several grounds on which they have declined to sell. The general reasons have been, that the property is so situated as to be likely to produce by a different mode of treatment a very large improved value, or there being minerals of very doubtful, and probably in some cases large value, upon the estate, or from its being so situated as to derive considerable value as accommodation land, or the probability of a railway coming near, or from its being intermixed with property which is not yet vested in the Commissioners, so that until the whole comes into their hands they cannot judge of its actual value.

595. Have you any statement of the extent of property to which that has gone in acreage, or value upon which you have refused to sell?—The amount in fee simple value as calculated by the surveyors is somewhat more than 300,000*l.*

596. All that is lying still in the Commissioners hands to make the most of, either by running out or by selling it at the proper time, is it not?—Yes. There is one case where we are negotiating with the lessee of a large property in the neighbourhood of London, which property is capable of great improvement by being built upon, and we are endeavouring to come to some terms with that lessee, the result of which may be to give the lessee a portion of the improved value. This case having been first taken out of the general resolutions as to selling, for the special reason of its great improvable value, the Commissioners consider themselves at liberty to negotiate with the lessee, as any other owner of property would.

597. You stated just now the mode of dealing with the property as established by the Commissioners was as profitable a mode as any you thought likely could be proposed; is that your opinion?—I am not satisfied myself that there is any other more profitable mode for the Church. I have already suggested one alteration which I think should be made in the resolutions of the Commissioners, namely, that selling should be entirely at the discretion of the Commissioners; but there is another alteration which I think should be made, namely, that tithe rent-charges should very rarely, if ever, be sold. The same reasons do not exist as to tithe rent-charges for inducing a desire on the part of the lessees to retain them; and, on the other hand, I think it desirable that the Commissioners should be the possessors of the tithes for the purposes of augmentation.

598. I wished to ask you this question, whether, when you stated you did not see any better mode, or that you were not satisfied there was any better or more profitable mode of dealing with the property, you bore in mind at all the social or political consequences of the different modes adopted of dealing with the property, particularly of refusing altogether to renew?—I think it would be exceedingly desirable to adopt some mode of dealing with the estates of the Church now in the possession of lessees, and in which they have so large an interest, which should still preserve this particular tie between the laity and the Church. Hitherto my answers have been directed to the mode of dealing which the Commissioners have considered themselves bound to adopt, as trustees for the specific purposes of the augmentation of poor livings and increasing the general provision for the cure of souls; they have considered themselves bound to obtain the full value, with the right to exercise no large financial discretion and none on the ground of general policy. With them it has been mainly a question of value; they have felt themselves bound to obtain as much as they could from the property, for the particular purposes to which the proceeds were dedicated by Parliament. But I consider the question delegated to this Commission, if I may be permittted to say so, to be one of a larger character and scope, and that the inquiry lets in views of policy; questions of general benefit to the Church and to the community as well as the mere financial question; and if any plan can be devised which shall give to the Church the fair value of its property, and at the same time conciliate that large body of the laity who are now the ossessors of estates upon lease, it would be, I conceive, highly desirable.

599. Supposing we were confined to the same method you have adopted in your Commission, would not the commutation be a very slow process?—Do you mean the process which the Ecclesiastical Commissioners have adopted?

600. Yes. Supposing that course to be adopted generally before we got possession of any considerable portion of the property belonging to the Church, would it not take a very long time?—I think it would not be so slow as it might appear at first likely to be, because we have combined with this mode of dealing with the lessees a plan of commuting with the prebendaries. If we were to wait for the vacancy of every prebend or dignity until we dealt with the lessees, of course the period would be very long deferred before we came either into possession of the fee by purchase of the lessee's interest, or into possession of the value by the sale of the reversion. But, under the powers of the Cathedral Act, we have in many cases purchased the interest of the prebendary, and thereby placed ourselves in a position of immediately dealing with the lessees. The plan upon which we generally deal with the prebendary is to ascertain the market value of the reversion of the property, to convert that value into an equivalent perpetual annuity, and to pay that annuity to the prebendary during the remainder of his incumbency. This arrangement provides for the contingency

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contingency of a vacancy occurring otherwise than by death. In some cases, for special reasons, the Commissioners have commuted by paying a gross sum.

601. Out of what fund are the Commissioners enabled to do that?—Out of purchase monies received, or other capital, the Commissioners considering all such payments, whether in one gross sum or in annual sums for a limited period, as investments. The advantage of the arrangement is to enable the Commissioners at once to deal with the lessees.

602. Has that gone on to a considerable extent?—The Commissioners have commuted in about twenty-five cases of separate incumbents.

603. Have you the prebends of York and Southwell?—We have dealt with the Chapter of Southwell in that way, having commuted the interests of the remaining members of that chapter, and have thereby got the whole estates into our possession subject to the leases; and we are now beginning to deal with the lessees for sale and purchase. We have done the same as to the estates of the deanery and certain prebends of York.

604. Do you find the lessees come pretty readily into negotiation with the Commissioners?—Very readily.

605. What annual rack rental have the Commissioners in their hands, and which they now administer?—About 16,000*l.*

606. Do you know whether practical inconvenience has arisen in the management of the rack rental by the board?—I am not aware of any inconvenience; they generally appoint local receivers and managers.

607. Should you imagine if such rental went to a large extent, say 200,000*l.* or 300,000*l.* a year, that that could easily be managed by a central board?—At present we are in possession of a small property only of that description, but as far as our experience goes we find no difficulty in the management of it.

608. Do you think surveyors appointed by a board have such a keen sight as to the best mode of administering a property or drawing out its value as those employed by a resident landlord himself would have?—I think that the Ecclesiastical Commissioners have been particularly fortunate in the selection of their surveyors. It was some time before they fixed upon any person whom they thought they could thoroughly confide in as their surveyor, owing to the very peculiar nature of the property, and the connexion which existed throughout all parts of the country with the lessees. The Commissioners were bound to look for somebody who would deal with the most perfect impartiality for them. Both Messrs. Clutton and Messrs. Pickering and Smith have fully borne out the high characters which the Commissioners received of them from various quarters. I believe that they are as zealous and as perfectly honourable and as desirous of protecting the interests of the Board and of the Church as it is possible for any officials to be in the service of any employers.

609. In the case of deans and chapters, supposing a measure was carried out, and the estates would have to be valued to fix the annual value, would there be any objection to Mr. Pickering, or one of the persons you have mentioned, coming down to Canterbury, meeting the surveyors of the dean and chapter, who would be acquainted with the locality, and so to fix the value jointly?—None whatever. Messrs. Pickering and Smith and Messrs. Clutton make a point, whenever they can, of communicating with the local surveyors. I believe their practice is to select the person who bears the highest character in the neighbourhood, and they communicate also with the persons who have been employed by the lessees themselves, their object being to arrive at all possible information upon the subject of their inquiry. I think that any plan of dealing with lessees by surveyors on each side, with power of calling in an umpire, would not answer so well as that of appointing a highly respectable surveyor, who feels he is acting under the eye of a public board, with a responsibility to that board and to the public for his whole conduct.

610. Have the Commissioners acted under the provisions of the Mines Leasing Act?—They have.

611. And have the Commissioners received half proceeds under it?—The Commissioners are now in the receipt of the half proceeds of mines which have been leased by the Bishop of Exeter, and by some others.

612. Do those half proceeds go to the general fund of the Commission?—They fall into the general funds of the Commission, and are employed in the same way as the other funds.

613. They are not accumulated for the benefit of any specific purpose then?—The Commissioners are not bound to reinvest them. They go into the general funds of the Commission.

614. And are they treated like any other source of income?—Yes; like any other proceeds.

615. Are they treated as income?—Yes; in the sense of being applicable to current expenditure.

616. Would not the same principles that suggest themselves as to the investment of the incumbents revenue from these mines properly apply to the investment of them by the Ecclesiastical Commissioners themselves, so that posterity should have its share of the benefit?—I do not think the same principle would apply, because the Commissioners receive

receive these proceeds for the purposes for which the whole of the property is vested in them, that is, the general purposes of augmentation; all is applied to the benefit of the Church, and there is no beneficial interest in the Commissioners. But in the case of an incumbent, who has only a temporary interest in the living, it is obvious that it is in the nature of waste that he should be using as income for his own sole benefit that which is only a temporary proceed of the mine, and which may be consumed within a limited time, instead of investing it and so producing a permanent income for his successors.

617. Much of the expenditure of the Commissioners goes rather in the shape of investments for building parsonage houses, does it not?—Yes.

618. And it is not invested as income, but as capital?—Yes, precisely so.

619. Then do the Commissioners carry the law into execution, but only in another way?—The Commissioners being a permanent body it is immaterial whether the proceeds are invested, or whether they are used as income; the incumbent being only a temporary holder the cause is wholly altered.

620. Although the Commissioners are a permanent body the mine is not permanent, considering it is being worked from day to day, is it?—Whatever the Commissioners do for the benefit of the cure of souls is for the benefit of the whole succession; it goes in perpetuity to the particular living. In making augmentations we take care not to exceed in the whole that which upon the best calculation we believe is to be relied upon as sure permanent income.

621. Do you consider the proceeds of a mine a sure permanent income or not?—Certainly not to its full extent.

622. If I understand rightly, the Commissioners now have very little current income?—The current income of the Commissioners falls below their current expenditure in perpetuity.

623. Then how is the rest made out?—It is provided for by a sum of stock which was lent to the Commissioners by the Bounty Board, and which the Act enables them to use as income, in order to make up the deficiency of their income in any given year; they have permission to sell out that stock, and to apply the capital as income; and that arrangement was founded upon a calculation that at a given future time, when the stock would probably be exhausted, the current income of the Commissioners from property which was then in reversion, and great part of which is still in reversion but is gradually coming into possession by the system of selling and purchasing, would produce an income which would enable them to pay the dividends of the exhausted stock,—to meet the additional perpetual liabilities which they were incurring in the meantime,—and ultimately to replace the stock.

624. Are you in a position to assure us that you invest permanently as capital on parsonage houses at least as much as you receive from these mines?—We have spent on parsonage houses a great deal more than we have ever received from mines.

625. Have you ever made the calculation?—Not specifically. But we from time to time take fresh calculations of our liabilities, of our income, and of the present value of our whole reversionary property, and upon those calculations we found our estimates as to what we can afford to give in the shape of perpetual annuities to livings.

626. Is it upon such a review of liabilities and future prospects taken last year, that the Commissioners have lately considered themselves entitled to make a fresh allotment to the amount of about 5,000*l.* a year permanently?—Precisely so.

627. Are you satisfied that you lay out in the shape of capital in houses and things that are to last, as much money as you get from these mines?—We make no point of doing this, because we do not consider the proceeds of the mines as capital to be necessarily reinvested, and the Act does not require us to do so.

628. I am not speaking about the legality of the mode now pursued, but whether, in point of fact, you do lay out permanently as much money as you receive from the mines?—We do not make a point of it, although practically we have so laid out very considerably more.

629. Then are you not laying out a fugacious income which will fail you by and by, instead of investing it so as to make it a permanent source of revenue?—I cannot admit that to be the result of our mode of treating these mines. We are using the proceeds of the mines that come into use from time to time for current purposes, always having in view the general calculation which prevents our exceeding in our whole perpetual liabilities those which we can ultimately meet.

630. You do not consider yourselves at every given moment under the obligation to have as much invested in permanent securities as at any time passes through your hands?—Perhaps I can best illustrate my meaning in this way. On the 1st of May and on the 1st of November in each year our payments become due to the clergy in augmentation of their livings. Supposing upon the 30th of April the sum of 20,000*l.* to be paid to us for the purchase of an estate, on the 1st of May we have no other funds in our hands than those 20,000*l.* On the 1st of May 20,000*l.* may become due to the clergy; we do not invest the 20,000*l.* we have received for the estate in the funds in order to wait an investment in land,—and sell out 20,000*l.* of our stock to meet the payments to the clergy; but we meet

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the payments of our clergy with the 20,000*l.* we have received from the purchase of that estate, calculating that the stock which remains unsold stands as representing that 20,000*l.*

631. You say that you take a general review of your probable resources before you act. In taking that general review, have you ever calculated how long the mines are likely to yield an income?—In none of our calculations, except in the case of Wolverhampton explained by Mr. Meadows White, have we ever taken into account the probable proceeds of mines, because we have considered it so fugacious and so doubtful that we have not taken it as income on which we could rely at all in our calculations of what we could afford to give away.

632. To what extent have you already received from mines?—At present only a small amount.

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633. ARE you the actuary of the National Debt Office, and Government calculator?—I am.

634. You have turned your attention, have you not, to the mode of converting leases for lives into leases for terms of years?—I did, many years ago.

635. Would you have the kindness to state what process you would think the most convenient for that purpose?—I stated to the then Archbishop of Canterbury, before the origin of the first Ecclesiastical Commission, the only mode by which I conceived it could be done with justice to the estate on the one hand and to the tenants on the other, and that was by means of a table showing the values of life annuities depending upon the co-existence of two lives at every possible combination of age and sex. The Commissioners are of course aware that there is a great difference between the mortality of the female sex and that of the male sex, each being at the selfsame age; the consequence of that difference is, that a quadruple table must be made, one of two males, one of two females, one of a male and a female where the male is the oldest, and one of a female and male where the female is the oldest. Upon that quadruple set of tables, the preparation of which is merely a matter of manual labour, always executed by inferior calculators, when the law of mortality is determined, there can be drawn out a corresponding quadruple table, showing what is the value of an annuity on the longest of two lives under any one of those combinations of sex and age, at one or more given rates of interest. For this purpose I think, and always have thought, that interest at the rate of four per cent. is the proper rate. But there might be tables constructed also, where the rate of interest is at three and a half and at four and a half per cent., so that as times and circumstances varied, one set of tables might replace another set. These values of an annuity on the longest of two lives, being shown, it was my recommendation to the archbishop, and subsequently in a paper to the Ecclesiastical Commission, that all renewals on three lives should be refused when one of the three fell in, and that the tenant should be offered an equivalent term of the self-same value, as the value of an annuity upon the two lives that were remaining in his lease; thus, if he had a life of twenty-nine and another of eighteen in his lease, both males, for example, it might happen that the value of the annuity upon the longest of those two lives would be equivalent to an annuity for a term of forty-three years. In my former evidence before the committee of the House of Commons, you will find several cases given by way of illustration of that mode of commutation. The tenant most likely would refuse in the first instance; but by taking due care to construct such a table in the manner necessary to render it a perfect document, to have it printed and laid by authority of Parliament before all the world, the tenant could not fail very frequently to refer to it, and although he might have refused at first to commute his lease into a term of years, yet if he saw any one of his two lives the worse for wear, it is quite certain he would come in to the proposal, because as they got older he would see by the table that his term was continually ebbing out; that is to say, the equivalent term of years would be shorter and shorter as his two lives got older and older, and therefore his own interest naturally, in the course of a short time, would impel him voluntarily to accept a term in lieu of his two lives, but if one of the two lives fell in, it follows the term would be still shorter, when it is to be the equivalent of one only remaining life. Tables comprehending the term equivalent to one life, as well as any two lives, are very easily prepared; it would be simply a work of no very long time. The only question then that would remain, would be the sustentation of the incumbents of the church property in the interval; and I hold there is no difficulty in doing that, because on the security of the reversion which belongs to the Church, money can always be raised at a very moderate rate of interest. In a very great many instances, the tenants, to avoid the expense of insuring their lives, would naturally of their own accord accept the fair and equitable term of years in lieu of the lives, and they would be very foolish if they did not. I believe it will be

be found that this is the only practical plan, one in which indeed no compulsion is requisite, for getting finally rid of leases on the tenure of life altogether.

636. Do you mean by giving for the two lives which are still in the lease an equivalent term of years?—Yes. I should absolutely refuse the renewal by the insertion of a fresh life in any case whatsoever. The tenant has no right to compel a renewal; and it cannot be said that he is injured by such refusal, for in that case he has no fine to pay. Thus by giving him a lease for a term of years equivalent to the value of the two remaining lives, he is exempted from the necessity of insuring them. He thereby saves the expense both of a fine and of life insurance, and is treated with perfect justice in every respect.

637. Your proposal assumes the object of ultimately coming into the enjoyment of the rack rent of the estate, does it not?—Not so; that does not follow. When the whole of the leases in process of time should be converted into leases for terms of years, it would then become a question in what way renewals should be granted. It was my proposal undoubtedly, many years ago, that a valuation of the estate should be taken, not at very near but at considerable intervals of time, fifteen or twenty-one years perhaps, so as to give the tenant time, and to encourage him to make improvements. When the valuations were taken, instead of a fine being exacted from him in a sum of money for renewal, he should give precisely the increased rent that was the equivalent of the fine. Thus if his lease were run down to fourteen years, and he is asking to pay the proper fine to renew it for twenty-one years, he would be told that no fine would be received, but such an increased rent for twenty-one years as would be the equivalent of that fine if it had been accepted.

638. Should that be taken at four per cent.?—I have thought very much on the subject of the rate of interest that would be proper, and the more I think about it, I am the more convinced that the rate of four per cent. is the just measure of value between the two parties. Interest at the rate of three and a half per cent. will be found to be the mean rate of interest which has prevailed for the last thirty years; this however was a period of profound peace, during which the accumulation of capital has been so very great as to have reduced the rate of interest, as measured by the funds, considerably below what would be the average of peace and war. Four per cent. therefore is that which I have always imagined would be the rate likely to prevail in this country for the next fifty years on the whole.

639. Supposing two lives for example, thirty years each; if the rate of interest is greater or less, is the equivalent term of years, at three per cent., greater than four per cent.?—It would not signify very much; perhaps three years in favour of the tenant at the ages stated, when the rate of interest is so very low as three per cent. instead of four per cent. In these commutations we are only comparing one value, viz. that of life with the other value, namely, that for a term of years, at one and the same rate of interest in respect of each kind of tenure.

640. Is there some difference?—There would be some, but no great matter when the rates are nearly approximate to four per cent.; for instance, three and a half per cent. and four and a half per cent. Reasoning *à priori* there ought not to be much difference. I would beg to add this: when you compute at three and a half and four per cent. respectively tables for a period of years, you have only one element in the calculation, which is, simply the rate given at compound interest; but when you compute for the longest of two proposed lives, at those two same rates respectively, you have not one but two different elements, you have the element of life involved as well as the element of interest.

641. Do you not consider the life as representing in calculation a certain term of years?—The law of mortality is one of the elements, and the rate of interest is another, which when combined enables us to determine what the pecuniary value of an annuity on one life is or on the longest of two proposed lives.

642. You have been making use of the expression, "equivalent term." Do you mean by "equivalent term," that which the lives are worth; a term equal to that which on calculations of mortality you would say those lives were worth?—The worth of a life is its pecuniary value in the sense we are speaking of; that pecuniary value might vary from one rate or another. If I had been aware of the question, I should have come prepared to illustrate it by a positive answer.

643. Do you mean to state, so many years hence it is probable that there may be some of these parties alive at the end of such a term of years?—No, not at all.

644. Such and such persons being of such and such ages, of variable health, it is probable one of them will be alive as long, say as ten years, or fifteen or twenty years; is that the mode of calculation?—That is not the way we reason.

645. Perhaps you will explain to us precisely what you mean by the expression, "giving an equivalent term for the interest in the lives supposed"?—There is a way of measuring it by what is commonly called the "expectation of life," at a certain age when an individual has an expectation of living so many years, that is to say, the total number of years of life which it has been found by observation 1,000 people of that individual's age had really obtained collectively would give a certain share of life, namely, the one thousandth part to each one, which is called "the expectation" of the person in question; but that is not the way by which these values are determined in reference to leases. On the contrary, the

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the annuity is calculated upon the condition of a given rate of interest; it is the discount of money that occasions the difference between the pecuniary value and "the expectation." The interest of money comes in then as an element; and what we do is to compute what is the value of a life annuity that is to endure so long as either of the two given lives are surviving. When the pecuniary value is found at the rate of interest given, we then compare it with a table of annuities for certain terms of years; we find an equivalent value in that table, the selfsame sum or very near it, and then we say the annuity upon those two lives is of the same value as an annuity continuing for a term of years,—of forty years, forty and a half years, or whatever it may be.

646. Ought not those two to coincide?—No.

647. Take lives of the ages of ten, fifty-five, and fifty-five, at three per cent.; the value of an annuity is equivalent to the value of an annuity of forty-one years certain; at six per cent., it is only equivalent to the value of an annuity for thirty-three years; is not that so?—It may be, but there is a great range between the two rates of interest in question.

648. Does an "equivalent term" mean anything more than "expectation" of life?—It is a question of pecuniary value on both sides, not of the number of years composing the "expectation."

649. Is there any doubt that an "equivalent term" means a term equal to the expectation of the longest life, without reference to value?—There is a very great difference. When you compute a life annuity upon two lives you follow the law of mortality out at each and every age, as also the discount of money to the extremity of life, that is, nearly to the age of 100. When you compute for a term of years equivalent to the "expectation" you only follow the discount of money to the number of years in the "expectation;" but this operation would seldom include half the number of terms in the other. It is obviously, therefore, the discount of money that makes the difference. You will find that an annuity on a life aged forty, at the given rate of four per cent., is a very different thing from the expectation of life that that person has. The former would be equal to an annuity of $23\frac{1}{2}$ years in value, whereas the "expectation" might be $27\frac{1}{2}$ years. There is no means of ascertaining an equivalent term that is just to the tenant and the estate, except by putting the life annuity in the same scale as the annuity for a term, that is to say, we must ascertain the identity of the pecuniary value of each of them.

650. You cannot separate the two for the purpose?—No.

651. Can they not be separated?—It would not be just to the estate to do so.

652. In giving an equivalent do you take from a man a certain interest?—No, we give him precisely what is his interest; for, suppose you were to buy out his two lives, you would give him the just value. The just value is not the expectation of life, but the pecuniary value, which is largely affected by the discount of money.

653. In the scheme you have been propounding for the conversion of leases on lives into terms of years you have looked to the immediate conversion of existing lives into terms of years?—Only gradually, as one life out of three from time to time falls in out of every lease in which there are three lives.

654. Might there not be a plan of this kind, that when lands were under lease for lives, and the tenant applied for a renewal, might not the lessor say to him, "Well, I will "renew, but not in the form of another life. Calculate the value of lives now in existence, "and I will give you now an additional term of years, say seven years, or whatever it may "happen to be, beyond the actual duration of the longest life, and you shall fine on that "instead of fining on a new life," and then after two or three renewals it would all come in?—You mean when one of the three had fallen in.

655. Yes, when one of the three has fallen in. He applies for a new life; you refuse the life, but give him what you suppose to be a term of years equivalent to the best life that might be put in?—You certainly could give him a term equivalent to the value of an annuity on the longest life of the three.

656. Or you might add on seven years at the extremity of the three lives?—You might; it would come to a question of value. No doubt it could be done. If he were to say, "I "want at this time positively three lives; I will have, in addition to my two existing lives, a "life of ten years of age put into my new lease, that is, the best possible life." In that case you would say, "Well, we will not do it in that form, but you shall name a life of ten years "of age; we will compute the value of an annuity upon the longest of the three lives, "including the supposed one, and we will give you a term equal to that."

657. "Which shall increase the interest you now have up to the extent which it would be "increased if we gave you the third life." Is that so?—Yes, in respect of interest.

658. And in value?—And in value too; but then he pays for that enhanced value. You keep the original two lives and add this imaginary one.

659. Calculating what the addition to the value of the two existing lives would make you add the imaginary life?—Yes; that is easily done. Then in return for this he must pay the fine, either in a sum of money or in an increased rent; thus he is paying for the prolongation. It would be a slower process of arriving at the ultimate object of a complete commutation of lives for terms.

660. It

660. It would be the means of bringing it gradually, after the expiration of two or three lives, to a term of years, would it not?—Yes. There is no arithmetical difficulty in it whatever.

661. It would be the same as your plan, would it not?—Different only in the time required to effect my plan.

662. Would the time be different?—Yes; it would prolong the term a good deal.

663. Could you probably give, if you were to apply your mind to that, some calculation as to the time it would take to effect that?—Yes. I do not know whether the Commissioners coincide with me in my opinion, that four per cent. is a just rate as a basis, at least for illustration. I have stated before, that if tables were drawn up for this purpose, and published for the information of all the world, at the three rates, three and a half, four, and four and a half, and that according to times and circumstances powers should be given to those who administer the estate to charge it by one or other, according to the price of three per cents. at the time being, if that were done, there is nothing else beyond the labour of computation wanting to provide those tables. Those being prepared, there is no occasion to tie up the administration of the estate to any one particular rate, as if that were invariable.

664. That might be taken, I suppose, in the same way, as it would be considered whether the estate should be sold for twenty-five years or thirty years purchase, or thirty-five years purchase?—It comes to that very thing.

665. According to the circumstances?—Yes, it comes to that, according to the times and circumstances. It is only having another book provided; and for so great an operation as this is, it appears to me the trivial matter of a few hundred pounds of expense cannot be an obstacle.

666. Are there no published tables of the value of joint lives, that is, the value of the longer liver of two lives?—No; at least not that I ever heard of. A table was computed by me (although not published), and laid before a Committee of the House of Commons on the Church Estates in 1837, which did show the values referred to, but without distinction of sex, interest being at the rate of three and a half per cent. Every equivalent term of years, for every possible combination of two ages, was set forth; but the law of mortality that I adopted in that instance was much too favourable for the tenant. It was the law of mortality resulting from the experience of the Equitable Office, that had been published not very long before then; and as the younger lives in that office, in consequence of arrangements that took place in November 1815, were most highly selected, and chosen with a view ultimately to pecuniary profit, they afford by no means a measure of life in general, but on the contrary, give a rate of vitality which is out of all probability greater than would be found among similar persons in the ordinary course of life. In the year 1815 it had been determined at the Equitable Office that all the profits of the office should go to the owners of the oldest 5,000 policies, that all those that came within the senior 5,000 policies should have the whole profits, and that the rest should be excluded from any share of profit until they grew up by seniority to come within that 5,000. The consequence of which was a high premium upon admissions of younger lives in the most perfect state of selection, and that made a very considerable difference in the law of mortality. It would be the most favourable one for the tenant if that same table was adopted; but as we have now reached to much greater certainty of the truth itself, I see no necessity for taking an approximation to the truth.

667. There are peculiar circumstances, are there not, which dictate the insertion of particular lives in leases of this nature, which induce persons to put in lives not the best possible?—Certainly.

668. On account of personal interests?—A daughter or a son. They put in those of their own family.

669. Whom they wish to provide for, without considering absolutely it is the best life possible?—Certainly it is so; they are actuated by circumstances of family convenience; and for that purpose an observation has been made recently, and is very nearly completed, by Mr. Alexander Finlaison, my son and assistant, who is now present, which I am certain will be by far the most just measure of value that has ever yet been produced. No observation of the like extent and accuracy has ever appeared. It is so nearly completed that it could be put in operation in a few months. This consists of an observation upon the mortality of the whole of the tontines that were established in this country in 1773, 1775, and 1777 for Ireland, in 1789, the great tontine of Mr. Pitt, and also the first ten years of the life annuitants on the sinking fund. The first ten years only is taken because the youngest of them must have been thirty years on the books, and we have had experience of their having died out almost. That *observation*, containing 15,250 facts, individual cases, has been completed by him, and as those persons are composed of the nominees of tontines and of annuitants who purchase annuities on their own lives, I hold that in mass they are the identical same class of people as those that would be the nominees in the Church leases. That table is not yet so far advanced as to show the pecuniary values upon it; but he has so nearly completed his observation that perhaps ten days more will enable him to assign the law of mortality for each sex. When Mr. Pitt negotiated the tontine of 1789, he intended

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tended that it should comprehend 10,000 shares, in order to raise one million of money. But he was not able to dispose of more than about 4,200, the holders of the other 5,800 shares, either because they thought it a speculation or for some other reason, held out, and they demanded a long annuity instead, that is to say, a due proportion in the well-known fund composing our present "long annuities." This request was complied with; but the parties who did nominate their lives insisted on their contract, and said, "We are entitled to the "benefit of survivorship, not only on our own nominees, but on the whole of those you had "professed by the act to have had inserted, namely, the whole 10,000." In consequence of that the Treasury were obliged to write to the clergy of England and Wales to return the names of the children of the most considerable freeholders, noblemen, and gentlemen in their neighbourhood who could be afterwards traced and identified, from among whom the Government drew by lot the number wanting, and these are called the Government nominees; and as they were all of them the children of the gentry in the neighbourhood of the respective rural parishes, it follows, as there was no selection whatever made use of in their case, that they afford precisely the measure of the duration of life among people similar to those that would be in church leases. Now, from that observation it appears that the youngest of the nominees have been sixty years on the books: therefore and in point of fact there are not more than thirty out of every 100 of those enrolled who are now alive.

670. Did you say there was an Irish tontine?—There was an Irish tontine; but not, I think, many nominees resident in Ireland.

671. Are there two sets of tables called "The Equitable experience"?—Yes; and it is most important to distinguish them. As early as on the 24th April of the year 1800 Mr. William Morgan, the actuary at that time, stated, in an address to the shareholders of that institution, that he had, on the experience of the previous thirty years, made a comparison of the mortality that had actually prevailed in the Equitable, as compared with what had been indicated by the Northampton tables, according to which last they had computed, as they still do, their premiums. The purpose of this was to show the great profit the office was making. He stated that under the age of thirty not more than one half the lives fell in that ought to have been expected, according to the Northampton table; from thirty to fifty only three fifths, from fifty to sixty five sevenths, and from sixty to eighty only four fifths. It was a most unfortunate thing for the Government that when he was consulted by them in 1808 the same gentleman recommended, notwithstanding, that the Northampton tables should be the measure of value for granting life annuities chargeable on the sinking fund, because the consequence of that was a ruinous loss to the public; he well knowing that the table which was so gainful to the Equitable must of course in the same ratio be injurious to the public, life insurance being the converse of life annuities. Upon this report of Mr. Morgan's, in April 1808, as above, I went to work long afterwards, and so also did Mr. Griffith Davies. From the data which we thus obtained we were enabled to approximate very tolerably to what the law of mortality in the Equitable really was, long before they eventually published it in 1834. My method was to lay down on a curve the mortality of the Northampton table, then taking the half, three fifths, and so forth, as he stated, of the ordinates of that curve, I laid down another curve, by which means there was no difficulty in arriving at the law of mortality that prevailed in the Equitable. Others did it in another way; but it was done and completed, and published in 1825 by Mr. Griffith Davies, not by me. When, however, that publication came out, it was found that Mr. Morgan, in his report, had referred not to lives but to the policies that fell in; that makes all the difference. If policies are to be reckoned I myself count for six times, inasmuch as I have been insured six times. There is a table now at this moment very recently come out, which is of necessity erroneous for this reason. Many of the actuaries of London had a few years ago set about the praiseworthy task of obtaining the experience of different life assurance offices; they could however only procure returns of policies, not lives; they have nevertheless published tables showing many useful results, but which cannot be relied on as a measure of the mortality of assured lives, because I myself, as I already instanced, am insured six times, and count for six in these very tables.

672. Not in the same office?—In different offices.

673. Are these laws of mortality drawn from the experience of more than one office?—Yes, I think sixteen offices contributed. The error is this: that the law of mortality being nothing else than the ratio between the number living and the number dying at each year of age, I shall count, while I am alive, for six among the living, and when I die I shall count as six deaths. Therefore a table constructed on that principle would greatly overvalue the rate of life in its earlier stages by exaggerating the number of living at each age until the decline of life. Nevertheless, Mr. Griffith Davies, having no other data for his table, published his before me, but in the same year, 1825, as that in which I published the government tables before the Committee of the House of Commons on Friendly Societies.

674. That is the first Equitable experience published by Mr. Griffith Davies?—Yes. But four years afterwards my tables were again published by the House of Commons. Nevertheless many actuaries still go by Mr. Griffith Davies's tables of 1825; but in 1834 Mr. Arthur Morgan, the present actuary of the Equitable, published the real fact of their experience, discarding policies and adopting nothing but individual lives

675. When

675. When did Mr. Griffith Davies's appear?—In 1825; and mine appeared in that same year, and also in 1829. The real experience of the Equitable was published in 1834.

676. There is often more than one policy in a single office by the same individual, is there not?—Yes; I am insured three times in one office.

677. Would that office return you as three policies?—Yes, undoubtedly; and I should appear at different ages according as I could afford to insure more and more, and hundreds of persons are in the same situation. When I speak then of having computed the table for the purpose of commuting church leases, I beg the Commissioners to understand that I computed according to the real experience of the Equitable, in the last observation, and not according to the tables of Mr. Griffith Davies, which were hypothetical, and which I very well knew, and had indeed on the same data previously or simultaneously computed a similar table myself.

678. Is the vitality shown by the first tables to which you allude greater or less than that by the second?—It is not very different, because the mass was so large; but it is a sensible quantity.

679. Was there much difference between your tables of 1829 and the tables of 1834, the second or real Equitable experience?—There was no difference at all after the age of forty-five between my tables for the male sex and the experience of the Equitable; because it is very obvious the number of female lives that are infused into an insurance office are so very few that it may be said to be an observation on male life exclusively; but there is a very great difference between my tables for female lives and that of the Equitable.

680. With respect to lives under forty-five?—The vitality, as exhibited in the real Equitable experience, is very considerably greater than was found to prevail among the Government nominees of the male sex.

681. May that be considered to represent the average?—Yes; the Government nominees may fairly be considered to represent the average of human life, whereas the other, at all ages *under* forty-five, represents life in the highest possible state of selection. It is to be understood that I never made any use myself of my own observations upon the hypothetical experience of the Equitable.

682. Is the difference in favour of longevity, according to the last Equitable, or against it? You published tables in 1829 and they in 1834. Confining ourselves to the lives under forty-five, was their table or was yours most favourable to longevity?—Their table under forty-five was much more favourable to longevity than appeared from the Government nominees; at forty-five, and all ages upwards, it coincided almost exactly with my table of the male sex.

683. Certain tables were published in 1829 by you, and others by Mr. Arthur Morgan, containing the true Equitable experience. The difference I understand was this; the fact was, after the age of forty-five that the two coincided, before the age of forty-five the Equitable tables exhibited a degree of longevity greater than yours?—Much greater. But the Commissioners will be pleased to understand that that refers only to the male sex, of which insuring lives are almost always composed. The last question refers, as I understand, to the Equitable experience of 1834. But the evidence of actuaries is very frequently given before committees of both houses, and last session particularly, upon the hypothetical experience of the Equitable, that is, not the real experience. No tables have been printed from the real experience that I know of, but tables have been printed and been before me at very many rates of interest from the hypothetical table.

684. Is the real table of the Equitable published?—The table of observations on life is; but not the values of life annuities computed from it, as far as I am aware.

685. Then it is merely matter of science that is published?—Yes. The physical observations are extant, but no tables of pecuniary values.

686. Have the insurers not the advantage of this experience?—The public have not. The Equitable and many other insurance offices go by the Northampton table, and make the public pay accordingly.

687. The Equitable have published two sets, each showing the Northampton table was wrong; they go by neither one or the other of those tables; but they go by that which both their own tables show to be wrong?—Yes, exactly so. When I had the honour of attending Mr. Jones at this board on a former occasion, I stated that there was a measure of the degree in which the Northampton table is erroneous. In a letter from myself to Mr. Herries, dated in July 1827, which was laid before the House of Lords, and printed, in July 1828, I called the attention of the Treasury to the enormous loss at which the Government were going on by persisting in selling life annuities according to the Northampton table, notwithstanding I had been nine years remonstrating against it. In that letter, however, the matter was brought to a crisis, in this way: I took the nominees of the first year from September 1808 to September 1809, 540 persons. I put down on one side of the account the money and stock that we got from them, and the dividends thereof that would have accumulated up to April 1827; I put on the other side of the account the annuities that were paid to them, the stock that that would have bought, and the accumulations thereof; and it turned out, at the end of the account, that the parties had

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had been paid back all that they gave, all its accumulations, and 10,000*l.* stock over and above. It then followed that they ought, in all justice, to have been dead at that date, but they were not dead, for four out of every ten were alive, whether in reference to the magnitude of the annuity, or in reference to the number, and some of them are alive to this day. There cannot be such a distinct proof of the enormous error of the Northampton table; and that it is at this moment in use in valuing Church leases I have good reason to believe.

688. Does not Mr. Morgan justify the use of it in the last report?—He only says there is a great difference of opinion about it. The difference is, all the world on one side and he alone on the other.

689. You think, upon the question of giving an equivalent to a new life, there is no difficulty?—None.

690. You cannot say *à priori* what term of years it would be on an average that you would have to add?—No. I might illustrate it in a particular case, and give half-a-dozen of instances. We must always take for granted that the lessee will put in the best possible life, which is a female life, aged ten. And then a female life, aged ten, might be combined with any other combination of two lives as examples; and from that you would see what is the particular term which would be got in consideration of the fine (or equivalent of that fine, in the shape of rent,) that he is to pay for putting in, not a new life, but a term of years equivalent to his interest in the lease if he had done so. There is no arithmetical difficulty whatever in the way of doing it, if such a measure would tend to gratify the tenants. Its effect would only be to prolong the operation.

691. It would be a longer and more gradual operation?—Yes. The estate would get a *quid pro quo*, either as a fine or as an equivalent of the fine, in the shape of increased rent.

692. The tenant gets what he wants, which is a step towards perpetuity?—Yes, and a great step; but time, nevertheless, would wear out his tenure.

693. The idea would be, not only to add that one life, but whenever another life dropped in to substitute again, and so on until you get it all into terms of years, instead of into lives?—Yes; the idea implies that he would surrender his lease for lives, and receive in lieu a lease for a term of years, equivalent to a prolonged tenure on a supposed life, the best that could be found.

694. How long would that operation take if you were to take the whole of the church property; could you give something like an approximation?—No; I could not. The longest possible tenure on lives is when there are three lives, all aged ten, which, as I have stated before, is equivalent to seventy-three years and a half.

695. There are no such cases, are there?—Not except it were in a lease newly granted by a bishop to his own family.

696. There are very few such cases?—Very few.

697. We hope to have an accurate return of the number of leases for lives and the ages of the lives. If that was put into your hand could you calculate how long that operation referred to would take, or approximate to it?—It would be an enormous calculation.

698. The leases you have been referring to would be renewable at certain periods, would they not?—Of course, as leases for terms. While I am on the subject I cannot help stating, but of course with great deference to the board, that a renewal at the end of every term of seven years, that is, from a fourteen years lease to one of twenty-one, is too short to induce any man to make improvements. Fourteen years at the least in town leases is allowed now, and, in my opinion, ought to be given also in leases of land. It is a subject that does not fall particularly within my province, except that I am accidentally led to think a great deal about it; and I do feel that no man has any inducement to make improvements when the term for renewal is once in every seven years.

699. But supposing that there was to be no change for twenty-one years. It is supposed it would be renewed for seven years, but only valued every twenty-one years?—That would be still better.

700. Would it not be better still that it should be matter of agreement between the parties as to improvements?—I think it is a great thing to hold out inducement for improvements.

701. In arranging for renewals might it not be done in either of two ways, by giving an addition over and above the longest of the two lives then in existence, or an equivalent for the whole three?—Yes; there would be no difficulty in that. The alternative assumes the conversion of the lease into a term during the existence of the three lives. It might be done on either supposition very easily.

702. You think it might be arranged, so that you left the two lives, and gave an equivalent, in the shape of a term, for the additional life asked by the lessee?—Yes, I think so. No doubt of it.

703. And gave a definite term after the longest of those two lives?—Yes.

704. Then

704. Then when the existing two lives were out the whole would be got?—Yes; the whole would be on the tenure of a term of years.

705. Suppose there were two lives, and the lessee applied for a renewal, and the calculated value of those would be thirty years. If, instead of the lives, you gave a lease for thirty years, what should you think of that?—That is precisely what I originally proposed, but I imagine the board thought that this method would be hard upon the tenant; he might have a definite term assigned to him, commencing after the longest of the two lives were gone; and also if during the currency of the lease on the two lives in question one of those lives were to fall in, he might then come again for a second term, in addition to the former one.

706. And then the interest he would present himself with to the lessor would be the remaining life and a term of years beyond that life, and then he would ask, or the lessor would give him, an additional term of years equivalent to the new life?—There would in some cases be great difficulty in that, but in general it could be done.

707. Suppose he put in a female life of ten years, the value of that is fifty years, is it not?—Yes; provided the survivor of the three original lives happened to be under twenty-five. You would therefore give him another term after the expiration of the first supposed life.

708. What is the probable duration of a female life of ten years?—More than fifty years in the "expectation;" but when interest is at four per cent. a term equivalent to the tenure on such a life would only be forty years.

709. Supposing it was reduced to one life of ten years, would not a lease for fifty years be equivalent to that?—I am not able to assign any more definite term than one of forty years. It can, however, be easily worked out; there is no arithmetical difficulty in doing all this, if it is considered to be expedient.

710. Would it not postpone the operation to a very distant period?—Yes; and the proof of that is, that out of the nominees in the tontine of 1789, which has been sixty years in existence, there is a very considerable number of the parties now still living.

711. What proportion of those in the tontine of 1789 are now living?—The answer to this question is so extremely important to the matter under consideration, that I beg to offer a few details.

In a former part of my evidence I explained that in that tontine there were two distinct sets of persons who were chosen under very different circumstances. One set consisted of the nominees selected by the contributors as the best lives they could find; the other set were the nominees of the Government, chosen by lot, without any selection at all, from the returns of the clergy. It is proper to state that when any dividend is unclaimed for three years, the nominee on whose life it depended is naturally supposed to be dead: it is transferred to the sinking fund under the title "forfeited."

The tontine then was and is as under:—

	Contributors Nominees.			Government Nominees.		
	No. enrolled.	Of whom were dead or forfeited at April 1849.	The per-centage of death being	No. enrolled.	Of whom were dead or forfeited at April 1849.	The per-centage of death being
1st class.—Lives under 20	2,432	1,451	59·663	3,559	2,117	59·483
2d class.—From 20 to 30	441	372	89·311	495	423	90·360
3d class.—From 30 to 40	270	263		283	280	
4th class.—From 40 to 50	187	187	100·	245	245	100·
5th class.—From 50 to 60	115	115		174	174	
6th class.—From 60 and upwards	50	50		56	56	
	3,495	2,438		4,812	3,295	

From the above statement the following conclusions are irresistible:—

First. That when the real facts in an observation are attainable, and are most accurately set forth, then results the discovery that the law of nature, *even on small numbers*, is wonderfully constant in the decrement of human life, among persons in the middle and upper classes of society.

Secondly. There is an absolute identity in the mortality of the selected and in that of the unselected nominees. Now as the contributor could not draw his dividend without first proving the existence of his nominee, he was in the first instance limited in the sphere of his selection to persons of his own kindred, whose fate he had the best means of ascertaining from time to time. The consequence is, that the mortality resulting from this limited selection is in no degree different from that incident to life in general among persons of the same

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same grade. And this is exactly the predicament in which the tenants of leases on the tenure of life are placed.

Thirdly. That there never can be found a more perfect measure of value, as between the tenants and the estate of the Church, than the pecuniary results which will be deduced from the observation (now very nearly completed) on the nominees in the public tontines since 1773 and up to April 1849. Whereupon it is demonstrable that the commutation of leases on lives into leases for terms of years on such a measure of value is practicable with perfect justice to both parties.

712. Within what period would the great bulk be brought in, should you say?—It is mere conjecture, but about four fifths perhaps within sixty years.

713. Have you sent the board a letter founded on a conversation, and also some papers which were submitted to you, and in which this element is found, that before the Church got into possession of half the rack rental, upon the plan laid before you, fifty-six years would elapse?—Yes.

714. You state afterwards your opinion that there would be a very serious loss to the Church, supposing that plan adopted; that in truth there would be paid to the Church a sum of 7,596*l.*, whereas the reversionary interest, properly calculated, is worth 11,955*l.*?—Yes; or in the ratio of 100*l.* to 63*l.* 10*s.* 9½*d.*; but I beg to observe, that that is not an opinion, but a demonstration.

715. In making this demonstration, of which I do not doubt the correctness, do you argue in this manner: If the Church had a full return for all its rights,—if there were no persons to share in the property at all on which you are calculating,—in that case the plan laid before you would occasion a loss to the Church of 36½ per cent.?—Yes.

716. Do you not put out of question, in making that calculation, any supposed allowance which either policy or justice, or both combined, should induce the Church to make to its actual lessees?—Yes; most decidedly.

717. You make no allowance for tenant right or any claim at all?—None whatever; other than a liberal allowance in moderately valuing, by survey, the condition of his farms from time to time, and further to assume the value of land in fee at no more than twenty-five years purchase.

718. Do you assume that at the end of fourteen years the property reverts absolutely to the Church?—Yes; I assume that, clearly, never having admitted of any copartnership in the inheritance.

719. You having taken that view of it, allow me to put to you, on this valuation of yours, what the result would be. As I take your calculation here, in fifty-six years the Church would have acquired exactly the half of the rack rental?—Yes; very nearly.

720. And it would go on, according to the plan submitted to you, fining upon the other half?—Yes.

721. Do you not assume now, fining upon the whole, that the Church gets about a fourth of the value?—No. In the previous part of my letter it is shown, if the plan now pursued, fining at seven per cent. with a continual right of renewal, were continued, that the Church would lose forty per cent. of the inheritance.

722. Do you not say, supposing the present plan to go on, the Church would lose forty per cent.?—Yes.

723. What would be the condition of the Church at the end of fifty-six years, provided the plan submitted to you were persisted in; would it not then have half the rack rental?—Yes.

724. Would it not probably go on fining on the other half of the rack rental allowing the lessee seven per cent.?—Yes.

725. Is seven per cent. two years purchase?—It is a fraction more than that, namely, 2·09006.

726. Would those fines, taking them on the half rental, be probably worth about a quarter of the rent?—The value of them is given here; that fine is precisely worth what it would cost to make it perpetual in the manner I pointed out.

727. In the present mode of dealing with Church property, do you not conceive the Church lose about forty per cent.?—Yes.

728. If you were to go on fining in the present mode upon half the rack rent, the Church would not lose so much, would it?—By the plan proposed (which went on very slowly, however, and very gradually), fining for so many years on the great bulk of the income at seven per cent., and going on gradually until at the end of fifty-six years it came to a half, the Church would lose 36½ per cent. of the estate.

729. I am not speaking of what the Church gained or lost during the process. Suppose the process complete, we should find the Church then in possession of half the fair rack rent of the property, and the fines, which would have been calculated on the seven per cent. table, the consideration for the other half?—Yes.

730. I am

730. I am assuming that would put them in possession of about one eighth of the whole of those fines. Taking those figures for granted for the present; I am supposing the income of the Church, or of the dignitaries of the Church, from its various sources amounts to 1,600,000*l.* a year; and then supposing this plan which you had in your hands had been carried out at the end of fifty-six years, the Church would get into possession of 800,000*l.* a year, being half the rack rent?—I understood it would get into possession of more than that; that no allowance was to be made at all for, and that no treaty was to be come to with regard to, the lessees of tithes.

731. But supposing this plan was applied to the whole Church property, distinguishing between tithe rent-charges and others, at the end of fifty-six years the Church would be in possession of 800,000*l.* a year, being half the rack-rental, and also of another income derived from fines on the other half, which I am taking at present at 200,000*l.* a year?—That would be so, assuming all the leases were fourteen and twenty-one years leases; but it would not be so with regard to other tenures for longer terms, nor for tenures by leases for lives.

732. Supposing the whole to be leases of a kind which you have had in your view, and which you have assumed here, then in fifty-six years the Church would be in possession of 800,000*l.*, being half the rack rent, and 200,000*l.*, being the amount they would get from fines on the other half; is not that so?—I do not suppose that to be 200,000*l.*

733. But upon the supposition that it is so, then the Church would be in possession of a property of a million a year, would it not?—So it would appear.

734. But then there would be left in the hands of the lessees, would there not, an interest in the whole of the church property equivalent to 600,000*l.* a year; that is, if the whole is worth 1,600,000*l.*, and the Church gets a million, the interest left in the hands of its lessees would be 600,000*l.* a year?—According to that mode of reckoning, it would be so.

735. As we have been calculating now upon the assumption that the whole church property was let out upon leases of twenty-one years renewable every seven years, must not the result be modified by the consideration of the fact that the whole of the church property is not so let out?—Yes, certainly; that is the modification to which I had just now referred.

736. Supposing an option was offered to the tenant of turning the whole fine into an increased reserved rent instead of half, do you not think that some portion of the tenants would prefer that, paying no fine?—Yes; I have no doubt that they would.

737. It is proposed to make the conversion of half compulsory, and then it is proposed to make it optional with the tenants to fine upon no part of the remaining half, or upon any additional portion, even up to the whole, that he selects; what is your opinion upon that?—That it would be advantageous to the Church if he did so in a small degree. But I have no means before me of showing the board what are the respective differences between the present value of the fines, supposing he were to pay a fine as proposed, and the present value of the renewal by means of increased rents.

738. Will you give a distinct answer to the question, whether that option, thus inducing the tenant to turn a larger proportion than one half of the fine into a perpetual rent-charge, would not shorten the period before referred to of fifty-six years as far as it went; that is to say, if you take half the fines and turn them into reserved rents, it will be fifty-six years before you get half the rack rent; but if, at the option of the tenants, they chose to turn more than half into reserved rents, that period of fifty-six years would be shortened, would it not?—There is no doubt that the period of fifty-six years would be shortened very greatly. I am not certain, however, of the arithmetical effect of this change until I work it out.

739. If, instead of turning one half the fines into a perpetual rent, the tenants turn the whole into a perpetual rent, do not you get the perpetual rent at once?—Yes; in the shape of a fresh increment of rent at every renewal, and the whole ultimately, in a century, perhaps. This is a very slow process.

740. Supposing they all agreed at the present time to put themselves into the position in which they would be in fifty-six years hence, you have shortened the time by that, have you not?—Yes, certainly; they could do it all at once. For instance, when a lease fell to fourteen years, the tenant might undertake to pay a rent, commencing at the time of renewal, of one half the rack rent, say 50*l.* per annum, together with a fine in ready money of 186*l.* He might then, with perfect justice to himself and the estate, be exempted from all future fines in respect to the other half of the rent; but not exempt from subsequent valuations in regard to any improvements of which the estate might be susceptible. In the letter which I have addressed to the board, I have stated the present value of fines and of the rents promiscuously, but in the calculations I have made, I happen to have them here separately. I find that the present values of all the increments of rent were 454*l.* 5*s.*; and that the present value of all the fines to be exacted upon this principle is 336*l.* 11*s.* 6*d.*; consequently it would be for the interest of the Church, even if the period of renewal were just the same, to get as much in the shape of rent as possible, by that not very small difference, 336*l.* 11*s.* 6*d.* as compared to 454*l.* 5*s.*

741. Have

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741. Have you considered how it would be, supposing the whole renewals were upon increased reserved rents every time; within what period would you come up to the half rack rent; that is to say, supposing that no fine were taken, and that the whole of every fine was turned into an increased reserved rent on each occasion, how many years would it take to bring that up to the moiety of the rack rent?—It would take a much shorter time, certainly less than half the period of fifty-six years, but how much shorter exactly I am not prepared to say at this moment. I understand the question to mean, that at each renewal the fine is to be set out upon the principle that it is to be computed at seven per cent., and instead of any part of that fine being taken in money, it is all to be taken according to the interest of it at seven per cent.

742. In that calculation, the fine being so divided into two parts, as in these several papers, is it a matter of indifference what interest you take?—No; it is a matter of very great importance.

743. Do you consider that seven per cent. is the fair datum to be taken for this purpose?—It is not, for the Church; but it is a great boon to the tenant. I cannot say conscientiously it is fair to the Church.

744. Then, giving seven per cent. to the tenant as a boon, do you think it is fair that any plan should be adopted which gives the tenant over and above 36 per cent., according to your showing?—I only know, when the crown leases were commuted, that no such boon was granted. I have attentively read Mr. Fordyce's papers in reference to that matter, and the decisions of the Treasury upon them. I think the principles Mr. Fordyce went upon (under whose command in the public service I once had the honour to be placed) are unassailable. His papers are in the Appendices to the Reports of the Committee of the House of Commons on Church Leases, and they are admirable.

745. Do you happen to know whether Mr. Fordyce's principles have been carried out?—Yes, clearly, and with the utmost success, as appears by his own latest report, and by Mr. Milne's evidence.

746. When the crown leases were commuted, did that extend to every class of property?—Yes; every class of crown lease that was then held renewable by fines or otherwise.

747. Did that include every kind of property,—house property, landed property, and mining property?—Yes. But Mr. Fordyce makes most important observations as to the difference to be observed between the two. His papers will well repay a reading.

748. What do you consider would be a fair allowance instead of seven per cent. as the basis for this calculation?—I am not at the moment prepared to say. I will consider it.

749. Having reference to the different classes of property, you would give different rates of interest, would you not, in regard to the different kinds of property?—There is a great difference between landed property and house property; but those principles are so beautifully illustrated by Mr. Fordyce, that I do not know anything more can be said about them than he has said; but I can draw up one report at four per cent., and another at seven per cent.

750. Do you not conceive you are obliged to make in equity almost a larger allowance in the case of renewals for lives than renewals for terms of years, on account of the necessity which a man has in the case of a renewal on a lease for lives of insuring and paying the profits of the insurance and the expenses of insuring, which he may avoid if he pleases, in regard to terms of years, by putting by an annual saving with no profit to any body?—That question was reasoned out by me in my former evidence; but notwithstanding *that*, the great advantage of a prolonged term that a lease for three lives gives, is by many lessees considered to be some unknown, some possible expected benefit, at some remote time. In short the mere duration of the tenure was held to be a make-weight, so that they were content to pay when the fines on lives were computed at five per cent. very often, and sometimes at six per cent. But I beg leave to mention to the Board, that it was not that five or six per cent. either, was considered to be the precise measure of value, but that no tables on two lives have been published at any higher rates, and the actuaries of course would not construct one *pro re natâ* but in very rare cases.

751. Do you make the loss to the Church 40 per cent., supposing the present system were continued, with a perpetual renewal?—Yes.

752. Is this the way that you make that out? Do you take the total value as being twenty-five years purchase, or say, as in the case referred to in your letter, 2,500*l.*, and then value the tenant's interest at fourteen years, and that the difference is the value of the property of the Church?—Yes.

753. Would that difference be precisely the market value of the property of the Church?—I think it would be less; if it were sold as a reversion it certainly would be less.

754. But if it were sold as a reversion?—I still think that, taking land at twenty-five years purchase, the reversion would be little more than the market value; but in the present times this is a low estimate of the value of land.

755. Suppose you took the calculation in the inverse way, and valued the market value of the reversion to be sold as a reversion; having done that, deducting that from the 2,500*l.*, and

and said therefore the tenant's interest is worth the difference; would not that make some difference in the valuation?—I think the reversion of a church lease would sell for very nearly the full amount I have put down there.

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756. It would only sell for that to the person who held the lease, would it?—Perhaps not.

757. That is a very limited market?—Yes; but it would be well worth it. You not only sell the then existing value, but every possible improvement and future advantages, which are contingencies not to be lost sight of.

758. Do you know practically when a renewal takes place whether the lessee generally comes with a reserve of money in his hands, or does he borrow the money for the purpose of paying the fine?—I know very little more practically of it than what I have gathered from the evidence of witnesses in the reports; but I see by the evidence of practical men that they are very often greatly distressed for the means of raising the fine. The practical knowledge I have results from a careful perusal of the evidence given, and this difficulty applies especially to the cases of widows. In my opinion the poorer class of lessees would be very glad to be exempted from fines altogether, and would prefer paying an increased rent instead.

759. What is the mode you suppose parties resort to for raising money for the fines is; it by mortgage?—Always by mortgage of the lease, and very frequently from life insurance offices; it is done through the medium of their solicitors.

760. It is important to know how far the conclusion of the tables corresponds with the conclusions of practical life, seeing that people do not always act upon tables, or put away every year five per cent. to meet the renewal. Practically looking at the circumstances and conditions of men, and their common course of action, is the advantage given by the Church really as great as it appears? When the lessee comes to a bishop or to a chapter, and he is told that he gets seven per cent. for his money, does he really practically get as great an advantage as he would appear to do?—The advantage to him is not so great in practice as it would seem. When the rate of interest was lowest in the funds, it nevertheless happened that in lending small sums of money, life insurance offices exacted five per cent. In the case that is now supposed, I would have advised any life insurance office to insist upon five per cent., because the loan in question is a small sum; but if it were 100,000*l.* or 200,000*l.*, I would advise them to lend it at 3½ per cent. That may seem a strange paradox; but when the interest of money rises, the lenders can call in the money, and force the borrower to raise the rate of interest at a time when he cannot so easily lay his hand upon 100,000*l.* as he can upon 1,000*l.*; so that really in large sums of money the rate of interest is a fluctuating quantity in practice, but in small sums it is not so. There is a further fact which I am able to state; any person having a lease for lives may effect an insurance upon the co-existence of those lives, for a sum payable when the co-existence of the three lives ceases, which provides the fine to put in another life according to what the lessee may surmise the fine to be; and it would be thought that provident people would always adopt that course, because the yearly premium is not so high but what they could easily pay it for a large fine; but it is a fact that not one thousandth part of the business of the life insurance offices consists of insurances upon the co-existence of lives, and so few are they that I am led to the inference that the fine is always borrowed.

761. What would be the real advantage practically given to a man in that situation by the terms offered by the Church of seven per cent.?—I can ascertain that by working it out at five per cent., and also at seven per cent. in the way the Board has directed, and that will exhibit it.

762. He will have to give five per cent., and he is allowed seven per cent.; is that it?—Yes. I will exhibit what the effect would be of a continual renewal at five per cent. as an equivalent to the whole fine.

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Mr. John Lake examined.

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763. Are you a solicitor practising in London?—I am.

764. Do you come authorized to make any statements on behalf of a committee of Church lessees?—No. I am no agent of the committee, nor in any way connected with such a committee.

765. Are you familiar with the subject of Church leases?—Yes, I think I am, considering that I have had no practice as far as acting as solicitor to any bishop or dean and chapter, or anything of the sort.

 766. What

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766. What sort of acquaintance with the subject have you had?—In the early period of my life I lived in the country. My father was an agriculturist; he was also a surveyor. My uncle was surveyor to the Dean and Chapter of Canterbury, assisted by my brother, for a good number of years. My father held a lease under the dean and chapter; my brother holds a lease under the dean and chapter now; and it has been a subject which I have heard discussed almost all my life. I have taken great pleasure in every thing connected with agriculture; and since I have been in town I have managed many gentlemen's properties, which has led me to the contemplation of the subject.

767. Do you wish to state to the Commission some mode which has occurred to you of arranging this matter to the advantage of all parties?—What I should wish to state would be this: a question of this sort, I apprehend, must be looked at upon broad principles, as a question in which all, and not the Church alone, are interested; and in order to give the subject due consideration the Commissioners must first of all ascertain, as well as the materials will enable them to ascertain it, what the relative values of the interest of the lessor and the lessee are in the subject matter upon which they are about to recommend anything which may result in legislation. It occurred to me to ascertain whether there were any materials to find out the amount in value of the interest of the Church, and the amount in value of the interest of their lessees, but I find none. It cannot, however, be denied that the value of the lessees interest is far greater than that of the lessors. Leases are generally granted for three lives, or for two lives in some cases; for forty years, or for thirty, or for twenty-one years, renewable according to the last Act of Parliament. A lease for three lives, for instance, cannot be renewed until one has dropped. If you take a lease for three lives or two lives or one life, (there may be exceptions,) generally speaking, the value of such leases is greater than the value of the reversion. Take a lease of forty years, renewable every fourteen years; when it is full beyond all doubt the interest of the lessee is more valuable than that of the lessor's; when it has run out fourteen years his interest is still more valuable than the lessor's. Take a lease of thirty years, renewable every ten years; when full, the lessee's interest is more valuable than the lessor's, and when ten years are run out it is as valuable as the lessor's. Then I come, lastly, to, perhaps, the most common of all, a lease for twenty-one years, and that, when full, is quite as valuable as the lessor's interest; when run out seven years, of course it is not. Taking the aggregate of all those together, the amount of the lessees interest in a lease for life, for forty years, or thirty years, or twenty-one years, must be greater than the interest of the lessors.

768. Do you mean the value?—Yes, in any way you chose to value it.

769. Do you mean at this present moment of speaking, or that, speaking at any point of time, you think the interest of the lessees must be admitted to be considerably greater than the interest of the lessors?—Yes, I do.

770. You are not taking into consideration, are you, any improvements which may take place subsequently?—I am speaking of it now, as of the year 1849, or any year anterior to 1849. It has occurred to me for a great number of years that the management of church property in the way in which it is managed now is not the most judicious mode of managing it. It appears to me that the public lose, that the lessors lose, and that the lessees lose. As far as the public is concerned the present mode of managing church property is decidedly injurious, and it is not advantageous to either lessor or lessee; and I make it out thus: if you put up for sale the interest of a lessee, and if you put up, by a separate sale, the interest of a lessor, (those together making the entire estate,) according to my calculation the two will not exceed twenty years purchase. Taking the estate as worth 100*l.* a year, you may thus get 2,000*l.* for the two separate interests; but if you put up the same estate as an entirety, it will fetch 2,800*l.*, the excess of 800*l.* being the estimated value of the improvements and benefits resulting from a union of the two interests. My opinion is that the 800*l.* is lost to the present owners. I should propose that the Church and the lessees divide between them the sum thus gained by selling the property as an entirety in proportion to the value of the present interest of each party. Suppose the estate sold, and the produce in sovereigns were upon the table, and the question was how to divide it, "What is the value of the lessor's, and what of the lessee's, in this sum of 2,800*l.*?" The division, if properly carried out, would be made in the way I state; namely, the lessor would take from the table the separate value of his interest, and the lessee the separate value of his interest, and the 800*l.* which would be left, ought, in my opinion, to be divided in proportion to such separate interests.

771. Do you not in that suppose the property to be sold, and, if so, in whom is the property itself to remain at the end of this process?—If it is to be sold you must not in the first instance throw it into the market, but give an option of purchasing to the tenant. I know that this division of the value of the estate has been the subject of considerable discussion and correspondence as to the mode of valuation. It strikes me the mode of division could not admit of doubt; that is, I should have supposed it could not be said, You are to value the interest of one party in an estate upon a principle different from that of the other; value one by the three per cent. tables and the other by the five per cent. I cannot understand upon what principle it can be contended that you should give to the lessor 800*l.* more than his separate interest would produce in the market, and none to the lessee. It must be recollected that the lessor cannot sell alone, nor can the lessee; and that, without a junction

junction of the two interests, the 800*l.* never could have existence. I cannot understand how it can be right that the one is to have all the fruits resulting from that junction.

772. Do you mean, supposing the lessor is desirous of coming into immediate possession?—I am supposing both parties are desirous of selling, or both parties desire to alter their present positions. If the Church, as lessors, say, "We do not choose to renew our leases, or "we do not choose to sell, or we do not choose to buy," of course that makes all the difference; if you have predetermined on that there is nothing to divide. You will not lease or sell but on your own terms, and if they are not acceded to there is to be no lease and no sale. Except you go on that principle, and you say, "I do not want to sell my estate, and "if I do I will make my own terms," I cannot conceive how it can be doubted that some such arrangement as to division of benefits arising from a joint dealing with the property is correct. I am assuming that it is thought right by the legislature, by the Church, and by the lessees that the present situation of the Church and the nature of their property should be altered. If that be so, it does seem to me to be most reasonable and most just that the fruits to arise from their agreement should not be all given to one party. Another consideration arises if the property of the Church is to be dealt with, whether to sell the property and divide the money (which I should think, as far as the Church is concerned, would be most imprudent), or offer to the lessee such terms as the lessees would be likely to accept as a body,—offer them the fee, which would be of no use to the Church unless they retain the character of lessors, they securing to the Church a rent-charge equal in value to the present value of the lessors interest, calculated in the way I have suggested.

773. Do you imagine that the landowners would in many cases prefer paying an increased reserved rent to paying a fine?—I do not know that they all would. I should say, perhaps, half would and half would not. Looking now with reference to the interests of the Church, I cannot conceive anybody would wish wholly to sever the interests of the Church in the land, because if any commotion were to take place I do not know who would be likely to be such defenders of the interest of the Church as those who have an interest with the Church in the broad acres.

774. Do I understand that you think a rent-charge would not be odious to the landed proprietors?—There are two classes who hold this species of property. In the part of the country I am most accustomed to, namely, the south, I can undertake to say that a rent-charge would be more agreeable to them than the payment of a sum in gross, because these church leasehold estates are principally occupied by those who own the leases. It is considered a desirable property by that class. The lessee becomes to some extent his own landlord; he has not, perhaps, the capital requisite to the possession of a freehold estate, but he can purchase a church leasehold, and if he do not possess all the means to purchase he can raise part of the purchase money generally at a less rate of interest than the fines on renewal are calculated at, so that he gets a profit on the investment, and he turns his purchase into further account by occupying the farm himself.

775. Are not these leases bought and sold very freely in small portions by purchasers, so as to come into different hands?—No; not in small portions. I hardly ever knew a church lease or a college lease divided. I have known two instances, not more; it is very unusual; the Church does not wish to multiply the number of its tenants. If a man pays 10*l.* a year, it cannot be advisable to divide that rent and have to collect it from two persons. It would be good for the lawyers. But, generally speaking, the property demised together 100 years ago is the same now.

776. Do you say that those leases are mostly in the hands of persons who occupy themselves?—I am speaking now particularly of the county of Kent, where, generally speaking, the lessees, being a class of men we term yeomen, occupy their own lands. I should say that a nobleman would prefer paying a fine to a rent-charge.

777. Is that because for about half the capital he becomes a landlord for the same quantity of land that he would if he bought the land itself?—Yes; I think so.

778. Do you know, in the north of England, that the average price of leaseholds, where the fee is valued at not more than twenty-eight years purchase, has been from eighteen to twenty years purchase?—That must depend upon the length of the lease and the terms on which the past renewals have been effected.

779. Where the lease is twenty-one years?—Then it must depend upon the fine, how that has been usually calculated.

780. A fine one year and a half, and confidence that it would be renewed?—We do not renew in our country on such terms as those.

781. You are speaking of the south; is there not a great distinction in consequence of the fines which are paid, and the greater or less confidence of renewal, by which the market value would be denoted?—The extra value of the lease entirely depends upon confidence, that the holding will continue by renewal beyond the bare term, and still more by the expectation of getting that renewal on advantageous terms.

782. When you say in Kent they do not renew on the terms referred to in the previous questions, what do you consider about the usual rate of renewal in Kent?—I have known instances

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instances in Kent on which they have renewed not to pay five per cent. to the lessee. If the question has reference to the Dean and Chapter of Canterbury, unless the representations made with respect to their dealings with their lessees are exceedingly misrepresented, they have no rule whatever by which they are guided; they get just as much as they can.

783. When you say you see no use in the Church retaining the fee, if you look forward to a long period, say fifty years, do not you believe there will be an increase in the value of land, and if so, would not the use in retaining the fee be to get the benefit of the increase?—I have thought of this subject, and I consider that special cases should be dealt with and so managed as special cases are under the Tithe Act. If there be mines, brick earth, or quarries, or if there be land which in the process of time will be devoted to building purposes, then they might not come within the terms of a present arrangement, but be excepted out of it, and some rule laid down now or when it is necessary to deal with those interests. If you attempt to deal with such cases by a general rule, it will end in disappointment, if not in doing injustice.

784. I am not speaking of the peculiar sources of increase at all that you have in your last answer alluded to. You are acquainted with the Weald of Kent; do you not know that great improvements have been going on there with the tenant's capital in draining; introducing green crops, and a new rotation of crops made possible by drainage, and that going on without outlay on the part of the landlord, and an outlay that a tenant would not make on a twenty-one years lease? From those circumstances will there not be a prodigious rise eventually in the value of that land independent of mines, minerals, or brick earth, and if so, who would you give that to?—In the first place, I consider it very problematical indeed that any such rise will take place. I am a landed proprietor to some extent, and I should be glad to let my estate for fifty years at the same rental I get now. In my opinion we must all deduct.

785. Supposing the body of opinions was rather contrary to that, and that there was a strong belief that from the better mode of cultivation and the great outlay now going on all over England, there would be added very much to the value of land fifty years hence; would not reserving the fee in that sense be useful to the Church?—The church property must be dealt with, like every thing else, practically. The Church are going to sell or to exchange. What gentleman proposing to sell his estate in part or in whole would think of reserving to himself a problematical advantage to be derived fifty years hence? In offering estates for sale this is never done.

786. But the Commissioners are looking to the question of the advisability or non-advisability of the Church selling at all?—I am assuming that both parties are willing to deal with church property in a practical way, so that it can be carried out.

787. In assuming it as advisable to part with the fee, but to retain an interest in the land, would you have that only vary according to a corn rent or something of that kind?—Yes; I should recommend a corn rent-charge, varying as the tithe rent-charge.

788. In that case would you not have to have a periodical valuation?—There might be such.

789. Would not the question then be what should be the length of the term that should elapse between one valuation and another? Suppose there was a periodical valuation once in twenty-one years, would that give sufficient scope for agricultural improvements?—Yes, I should think it would; but I should apprehend that you would settle this question once and for ever if you can.

790. I want to ascertain whether, practically, if it were thought advisable to keep the increasing value of the fee within the grasp of the Church for the purpose of the people, whether, if there was a valuation every twenty-one years and not oftener, that would afford full scope for tenants improvements?—For the tenant's improvements it would; but the landlord would never advance a shilling of it. You can hardly separate the two. Take the case of draining. I have been draining; I find the tiles, the tenant puts them down. I have been grubbing wood lately. I do all that, and I incur that expenditure because the estate is my own. You cannot get these heavy improvements done without the landlord.

791. If you give the tenants a lease of twenty-one years, will they not drain?—No, not with tiles; they have not the capital.

792. If you were to give a tenant leave would he not grub the wood?—I practically know that he would not; the roots, &c. would not pay for it.

793. Do all those matters depend on the particular circumstances of each case?—Yes.

794. Does your proposition come to this: that the course you would recommend would be of giving the Church a fixed rent-charge upon the landed estate which it now has in fee, and handing over the fee to the present proprietors, on the terms of dividing the dormant value which is called out by their mutual agreement?—Yes; in proportion to their respective interests.

795. As calculated at the time of the operation?—Yes. I think, whether you apply it to life leases or in any way, that the principle will hold good. Beyond the value of the separate interests of the lessor and lessee, you will have a sum which I should divide according to the interests of each. A good deal has been said about the value of the Church's reversions

sions and the value of the tenant's interest. I have had opportunities of knowing something of the value of each tolerably well. I have myself bought reversions and life interests, and have been concerned for others. There was a time when the Court of Chancery, in dealing with reversions, laid down something like this rule. The judges supposed that a man purchasing a reversionary interest was likely to take advantage of the necessities of his vendor, and they, generally speaking, would not enforce a contract unless the purchaser could prove, to the satisfaction of the court, that he had given the full value. It stood thus for some considerable time; until at last it was found nobody would purchase, and that it was injurious to the owners of such property; and they now adopt as a rule the "marketable value." The consequence is this, that every prudent man who wants to buy a reversion will not touch it until it has been put up to auction, or valued by some person acquainted with the market value. The Court of Chancery do not act upon what is called the "tabular value," or what a witness may fancy ought to be the value, but they desire to know the actual value, or what the thing will actually fetch in the market. A gentleman in Kent, who, very much to his honour, has built a college at Northfleet for the purpose of endowing it, asked my advice. I saw a present and reversionary interest advertised. It was an estate of freehold houses, with a present rental of 360*l.* per annum, secured on property let at 2,500*l.* per annum, and a prospective rental of that 2,500*l.* per annum in fifty-six years; an absolute fee simple, subject to a lease for fifty-six years to come at 360*l.* rent. The houses will, as the surveyor told me, be nearly as good fifty-six years hence as they are now; so that it is really a good description of property. I did not attend the sale yesterday, but my client has told me that two of the lots were sold and two were not sold, and that those that were sold only fetched twenty-five years purchase; so that here is a freehold rent of 360*l.* per annum, carrying with it fifty-six years hence the reversion of 2,500*l.*, or 2,140*l.* improved rent, and yet it only fetched twenty-five years purchase on the present rent. If you had taken this case to an actuary, (and there are no men in the world whose opinions I respect more as to calculations, but with regard to whom there are none that lead you more into the dark if you consult them as to principles): "A lease of freehold houses, well built, let for fifty-"six years at 360*l.* per annum, worth 2,500*l.* per annum; what is that worth?" He would put you down twenty-eight or thirty years purchase upon the rental of 360*l.*; then, if he took the reversion of 2,140*l.* in fee at the end of fifty years, and added that to the first sum, he would make an amount about double what the property actually sold for; and yet nothing sells in London so well as good freehold ground rents.

796. Is there no uncertainty of letting, or uncertainty as to the tenants, which has to be taken into consideration?—Yes; but out of this 2,500*l.* there is a margin of 2,140*l.* before any loss could arise.

797. In what way is that increase to arise; is it from leases falling in, and the party purchasing becoming the absolute owner?—It is in this way: a gentleman has a freehold estate, and he lets it to me for 360*l.* I build houses upon it, and let them for 2,500*l.* per annum; the difference is in an improved rent obtained by the building.

798. Supposing the house to last, is it not then a certain increase?—Yes; and I have no doubt that on a statement of this property an actuary would value property double what it sold for. No gentleman goes to an actuary if he is about to sell an estate; the question is, what it will sell for, not what in the opinion of an actuary it ought to sell for, with reference to any ideal standard. I have ceased to consult actuaries. When I have to sell or purchase or value property of any description I go to a surveyor or an auctioneer, who are practically acquainted with the value.

799. Is the property to which you have referred as having been recently sold secured on ground rents?—Yes; it is a ground rent of 360*l.*

800. In estimating the value you say you think that property ought to have borne, do you look forward to get possession of the houses at the end of fifty-six years?—Yes.

801. Have you considered how long they were likely to last beyond that time?—The surveyor stated to me that the property was so exceedingly good that he would undertake to say that those houses would be as good fifty years hence as they were now; that they were of a good description.

802. In your calculations have you taken into consideration the fact that the houses at the end of fifty-six years are not as likely to last another fifty-six years?—No; but that would have no bearing upon the value of the ground rents.

803. Does not the instance you mention seem rather to show that it is not desirable for the Church or a charity to part with property which has a value not available in the market, but which it is very sure to acquire at a certain distant period, when that charity or any public object may still be in existence?—That strikes at the question whether or no you are to deal with church property at all in the way of parting with it; and leads me to observe, that perhaps the lessee's interest ought to be considered a little with reference to what is to be done. I had an impression, that I had been made to pay at the Legacy Duty Office for the value put upon expected renewals of leases of church property; and I sent to the Legacy Duty Office to inquire if such were the case, and I found it was. The

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information I got was that if they knew that any executor valued a church lease for twenty-one years in possession without allowing anything for the expectation of renewal on advantageous terms, they should reject it, and put the valuation in the hands of their own surveyor, with directions to take into account and to estimate the value of the expected renewals.

804. You being a lawyer, I will ask you, do you believe that that is the law?—Yes; certainly.

805. Do you not believe, if you had carried that case into a court of justice, that they would have told you that that was an inappreciable sum, and therefore that you could not be made to pay it?—No. Look at it as matter of conscience; for instance, the law says ten per cent. is to be paid upon the value of the property you leave; an executor is conscientiously to administer the estate and pay the duty; he really and truly in his heart knows that he can get the value of a twenty-one years lease, and 100*l.* beyond it; can he omit it?

806. As you have no legal right to renewal, can you value an *expectation* of a renewal, seeing that you cannot measure it?—You have no legal right to a renewal, but it has a value attached to it differing at different times, but always in proportion to the confidence the lessee has in the mode and manner he has been dealt with by the lessor.

807. Do you think that any court of law would allow the Tax Office to appreciate that confidence?—An executor is bound to pay a per centage on what he believes or is advised to be the value of the property; supposing the valuation had been made to-day, and the executor paid only on the estimated value of the lease, and that he put up for sale the lease the next day, and it fetched 100*l.* beyond that value, I apprehend the executor would be bound to go to the Legacy Office, and tender the additional sum.

808. You are speaking of paying the legacy duty; you do that before you know anything about the result of what the thing will ultimately obtain. You say there is a certain price which ought to attach to this property, from the expectation of getting a renewal of the lease; that expectation varies with the appointment of a new dean, or a new archbishop, who may have altered the terms on which he would renew throughout all the leaseholds for lives in the whole diocese. How could you, as an executor, go and pay the testator's money away upon the calculation of an *expectation*, the correctness of which it is utterly impossible for you to know with any confidence?—I have done it, and I have paid probate duty upon it. I could bring forward surveyor upon surveyor who has made an estimate of gentlemen's property, and among the rest church leaseholds, who have valued in that way. The old fashioned way was to add one year or one year and a half annual value less the rent for the expectation or right of renewal.

809. Do you say that you have paid probate duty upon it?—Yes; it has been estimated in the general amount, and I have paid legacy duty also.

810. Have you ever known the point contested?—No.

811. Suppose, as to this property to which you have been referring, for the charity, that there was no present rent attached to it, but that there was merely the reversion of 2,500*l.* per annum, at the end of fifty-six years what would you be disposed to give for it?—Being a man with a large family, the only inducement for me to purchase it would be to make it a provision for those who are to come after me, and fifty-six years is too long for me to speculate upon for such a purpose as that.

812. Do you not consider that as an illustration of your former position, as showing how difficult it is to sell reversions detached from present income?—Yes, it is so; and I should say that nobody would buy that reversion, unless they could make six per cent. of it, and that is not one year's purchase; it would be about 2,000*l.* value at 6*l.* per cent.

813. Do you think it would be very imprudent in you to be buying reversions of that distant period?—Yes, because I could not afford it, but it would do very well for an office.

814. Supposing you were a permanent body, what should you think of selling reversions upon those terms?—It would depend upon whether I wanted the money or not, and also depend upon the use that I should have for my money. Although it might be said 2,000*l.* is a very small sum of money to obtain 2,500*l.* per annum fifty-six years hence, yet it must be looked at to see what that 2,000*l.* paid now, and invested, would produce, and if that investment was got at a high rate of interest, it might produce an income equal to 2,500*l.*

815. Supposing that you could not get any sum at all approaching to this great increase at the end of fifty-six years, would it not be imprudent to sell that reversion?—It would be imprudent, provided it was sold at a price less than its market price at the time that it was sold; that market price is regulated by the value of money. If you get for any commodity in money its value at the time, you have got its value and you cannot have more.

816. Do you think that you would get the tabular value for it?—It is impossible to state what that may happen to be, that is formed upon one per cent., two per cent., up to fifty per cent.

817. Take the tabular value applied to this particular kind of property, six per cent.; do you suppose that would be got for it?—Yes, I think it would. I think that the reversionary

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offices would buy it. It is rather too long a period for them, but I think they would buy it, and an excellent investment it would be for them as a public body.

818. Do you not say, generally, that the reversions sell ill?—Reversions sell, generally speaking, ill.

819. Do you mean that they sell below what may be called their tabular value?—I scarcely understand what is meant by tabular value. If I go into the market, and it answer my purpose, I can buy stock which will pay me three per cent., or I go into the market to buy freeholds to pay me four per cent., or lifehold to pay me five, or reversions to pay me six per cent. Having determined the rate of interest at which I mean to purchase, I look to the tables to see what the purchase money is to be, and that result I understand to be the tabular value.

820. Did you not say that the actuaries would mislead any body who would go by their directions?—I do, as to the value of anything that has a marketable value; they will take up a theory and work it out.

821. Did you not say that their calculations were right, but that they did not take into consideration all the human circumstances, if it may be so expressed, which affect the selling price of an article?—Yes, just so.

822. If that be so, you say, do you not, that the market value is not equal to that which, according to the calculation, it ought to be?—I say that the market value is not equal to that which the actuaries say it ought to be.

823. In what point do you say that the actuary is wrong?—He has no foundation, he has no base upon which he makes his superstructure; he takes up a theory of his own, and works it out. I have tithe rent-charges in Wales, and have been endeavouring to sell them for several years; I am willing to sell them at twenty years purchase, but I cannot get them sold. If I were to go and ask an actuary the value of a tithe rent-charge, say amounting to 100*l.* a year, charged on property worth 1,000*l.* a year, he would answer, it is the best description of property that can be, and he would not put it at less than thirty years purchase, and yet practically in the market it would not sell for twenty.

824. Would the basis of the actuary's calculation be his idea of the probable value of the interest in a given period of time?—I have seen the most extraordinary valuations by actuaries, and have been misled by them. Generally speaking, as far as I have been able to discover, they take the funds as their standard, and they say "The funds paying a certain "rate of interest, we must value all property producing a safe and certain income, by that "scale." That is the point they start with, and you can never drive them from it. The only safe way you can act, is to put the matter into the hands of those who accustomed to sell. I have known things put up to sale, after having received an actuary's valuation, which have not produced more than half. I have known this produce a great deal of mischief. In questions which arise between father and son and other relations, the advice of actuaries as to the value of any separate interest, where the basis upon which the value to proceed is not given, generally causes disagreement; their calculations are so preposterous in such matters that the only way to act is to put them into the fire.

825. Does it not come back to the same point you began your evidence with, when you said that actuaries mislead because they do not take into consideration all the circumstances of life?—Yes, certainly; of life and the marketable value.

826. Do you not suppose that they go on the calculation as if a person had so much a year, and he put by the proceeds of that every year at compound interest, that then he would get a certain amount in a certain number of years?—Yes, that is so; but then you must give them the rate of interest.

827. Do you not admit that their calculations are perfectly sound as far as that goes, giving that data?—Yes. Except that they assume rents and interest are paid on the day when due, which they are not; and that the recipient can on the same day meet with an investment, which is most improbable.

828. If you are certain that you have every year that amount, and supposing the actuary is tolerably accurate as to the amount of interest in the stocks one year with another, will not their tabular results be correct?—Yes, so far as the property assimilates to the funds.

829. But then you say they mislead you; how is that? Is it that the market valne is not equal to the tabular value?—I think the term "tabular value" is a misapplied term. The table is only a table by which you can ascertain the amount of anything according to a rateable value, or upon a scale previously determined.

830. Do they not take a table founded upon the price of stocks?—Yes; but the result is only a calculation, the same as if the question were, butter being worth 6*d.* a pound, what are 20 pounds worth? It is no more a tabular value than that. It gives a result, that is all.

831. As far as I understand your reason for the departure from the rate of the price of stocks, it is only that there are some other circumstances affecting the value of the article dealt in, otherwise you could put it upon the price of stocks exactly?—I do not see how the

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value of the stocks can govern the value of other property, or how it is in any way connected with it. What has the value of stocks to do with the value of rice, or land, or houses? It is only one of many things in which money is invested to produce a return.

832. You have been putting the case of a rent-charge in Wales; do you not know that some of those parishes sent up word that if the rent-charges were ever collected at all, it would only be at the point of the bayonet?—In answer to that, I would engage to get 20,000*l.* invested at twenty years purchase in tithe rent-charges in the metropolitan counties.

833. Did you not begin your evidence by stating that reversions were in disfavour, and that they were not of good market value?—Yes.

834. Whatever is in disfavour is a better property to keep than to sell, is it not?—I cannot understand that; it does not seem to me to follow as a consequence. I do not know why it is desirable to keep that which it is difficult to sell.

835. You were asked as to the policy of selling distant reversions on the part of a permanent body; those questions arose in consequence of your calculations as to the value of the reversion of house property. Permit me to ask you if, instead of its being the reversion of house property, it was agricultural land which had all the chances of improvement in the next half century which have taken place in the last half century? Would not that alter very much the policy of any permanent body selling such reversions?—If by a permanent body is meant the Church, many other considerations enter into the question; but if we take the case of a gentleman at large, who is obliged to borrow money at five per cent., with all the expenses of a landlord attached to the possession of the land, if he could sell his reversionary interest so as to save that borrowing, and preserve the income from those expenses, I should say that he was wise to sell it.

836. If he were to sell something in reversion which is assumed to be of the value of 2,000*l.*, but which possibly will be worth 3,000*l.* at the time supposed, then he would not be doing wisely, would he, to sell it?—It depends upon what use he has for his money, or what his necessities are. If he be paying five per cent. interest, besides expenses attached to the ownership and position of a borrower, he had better sell, if he can sell to any one satisfied to buy at a less rate of interest. If he be borrowing at four per cent. and cannot sell but at the rate of five per cent., he will make a profit by keeping. In the one case he will do well to sell, in the other he had better not sell.

837. Do you mean, if he is driven hard by necessity, that then it would become advisable to sell that which will become worth 3,000*l.* for 2,000*l.*?—I do not put it supposing he is driven by necessities, but I suppose that he has no particular reason either to sell or to keep. If he can make any particular use of his money that is more valuable to him he will sell; if he has no call for it, and likes the investment, he will not.

838. If he had the power of going to sleep and doing neither, would he not be an imprudent person to sell that as worth only 2,000*l.* a year which in all probability would be worth 3,000*l.* a year when it came into possession?—That reasoning would apply to the case of every gentleman who puts up an estate for sale. If I put up an estate for sale which I am advised will fetch thirty years purchase and it fetches only twenty-eight years purchase, I do not see that it is imprudent, and in no other way is it imprudent to sell reversionary interests at their market value.

839. Supposing, instead of the Church, it were the case of some noble family making provision for the sustentation of their honours, would you advise them to sell a reversion in land to buy into the funds?—No, certainly not to buy into the funds, because they would be selling by the twenty per cent. table and buying by the thirty.

840. If it is desirable for a charity to buy property which has a distant reversion in it, which will not cost much in the purchase, is it not as desirable for a charity also to keep such a property?—Yes; it would be peculiarly desirable for a charity that they should keep such a property, at least until they got within fourteen years of the possession, and then I should recommend them to do as Lord Fitzhardinge does as to property similarly situated, let it upon lease, with a fine. I am alluding to the reversion to house property, which I have mentioned.

841. Have you ever had the curiosity to work out these calculations at all?—I had, before I read any of the statements that have been made, or seen any papers, and before I knew this Commission was sitting, put upon paper suggestions, which I hold in my hand, although I am not certain the calculations are strictly accurate.

842. Upon what point do those calculations run?—It is working out my suggestions. The great recommendation I thought they had, and I think so still, is this, that if you *are* to commute the church property, and *are* to get rid of the present system, it is expedient that any rule you may choose to adopt should apply to every case likely to be presented; and it must be admitted of any plan that if such be the result it is a very considerable object gained.

843. How do you ascertain in all the different counties the value the respective parties had?—If the Commissioners will permit me, I will state my suggestions as I drew them out, and

and having done so, I shall be happy to afford any explanation. Church property is generally let on leases for forty years renewable every fourteen years, or thirty years renewable every ten years, or for twenty-one renewable every seven years, or for three lives renewable on death. Leases in consideration of a sum paid down are partial sales. The custom of leasing on fines prevailed long prior to the 32d of Henry the Eighth (and it is not confined to the Church, being now used on the estates of Lord Fitzhardinge and Earl Grosvenor, as being the most beneficial). Acts of Parliament have passed (commencing 32d of Henry the Eighth) expressly to authorize the granting of these leases, provided the previously accustomed rents or more were reserved, leaving the surplus value to be paid down in the nature of a fine. From the 32d of Henry the Eighth there is nothing in the statutes to discountenance this mode of leasing upon fines; and the last Act, 6th & 7th of William the Fourth, chapter 20, intituled "An Act for imposing certain restrictions on the renewal of leases by "ecclesiastical persons," avers that it was expedient that further provision should be made respecting them, and enacts that no new lease of lives should be granted till one or more life or lives had ceased, and no new lease for forty years or thirty years or twenty-one years, till fourteen, ten, and seven years respectively had expired. The returns by ecclesiastical persons of their incomes, in 1835, were founded upon the amount of fines for renewal of leases, and the Ecclesiastical Commissioners (in 1835) state that fines constituted the principal and in most cases the only substantial emolument. The expectation of future increase or decrease of the revenues is there stated, but no allusion is made to any expected increase by means of the leases being allowed to expire by effluxion of time. Leases by bishops and deans and chapters, &c. have been so constantly renewed for so many centuries, and the lessees have so presumed on a continuance of the system, as in some cases to give a market value to the expectation in proportion to the terms on which the past renewals have been effected and to the confidence reposed in the leasing body. They have been put in settlement, and entailed, and charged with life annuities and trusts very little differing from what has been done with freehold property; and instances are not wanting in which a leasehold estate has continued annexed to a freehold property for centuries, liable to the same entails and charges. The lawyers and the courts of equity have dealt with these leaseholds as a transmissible property extending beyond the term granted by the lease, and have made regulations, by which there has been set aside each year from the income such a sum as in seven years shall be sufficient to meet the then probable fine for renewal. It will no doubt be very embarrassing to a vast many families if these leases be suffered to run out; and it will be a recommendation to any plan if the interests (created under a confidence that leases would be renewed and continued as they have been from the earliest times) are not in any material degree interfered with. The custom of renewal has indeed taken such root, and is so general, that the Legacy Office require the legacy duty to be paid not alone on the value of the unexpired term in the lease, but with the addition of the value annexed to the expectation of a renewal. These kinds of leases have been favoured by the legislature beyond all others, and are expressly exempted from the ad-valorem duty in respect of the fine paid on the granting of the lease. Even the Act of Parliament, 3d & 4th Victoria, chapter 113, which transferred the estates of ecclesiastical bodies, transferred also the right to make the leases now under consideration.

That the present system of managing that part of the church property is not the most beneficial, is evident from the following considerations: Suppose an estate, the net value of which is 100*l.* a year, held upon a full lease for twenty-one years at 10*l.* per annum rent; the market value of this leasehold interest (limited to twenty-one years) if sold, is not higher than is shown by the 5*l.* per cent. tables, being 12¾ years purchase on 90*l.* per annum, (the annual value less the reserved rent,) or 1,147*l.* 10*s.* In other words a purchaser would expect that during the twenty-one years he should receive back the purchase money, with 5*l.* per cent. interest in the meantime. And if the reversionary interest of the lessor, subject to such a lease, be offered for sale, (there being but few who can or will lay out their money for twenty-one years, without any return in the nature of income, or who will speculate on what the annual value may be twenty-one years hence,) the market value would be thus:

	£	s.	d.
Value of the reserved rent of 10*l.* per annum at twenty-eight years purchase, as being a continuing freehold interest in possession - -	280	0	0
Value of the reversionary interest, (ultra that rental, being 90*l.* per annum,) at the end of twenty-one years, to pay the purchaser five per cent., being seven and a quarter years purchase, is - - -	652	10	0
Value of the reversion - -	932	10	0

Selling a leasehold interest for twenty-one years by one sale, and the reversioner's interest, subject to that term, by another, the aggregate is only 2,080*l.* for the whole estate, while the same estate, if offered in the market in one lot, would fetch twenty-eight years purchase, or 2,800*l.* The difference between the two modes of sale is 720*l.*, which is a loss to the parties interested or to the public. If an estate of freehold be held in shares, the same result follows. No sale of a separate share will realize anything like the same proportion in the proceeds by sale; and for the same reason; a man cannot do as he would with his

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share, nor can he improve it without improving the share of his co-owners at his cost. A divided interest is always a bar to improvement; a lessee for twenty-one years will not erect buildings or undertake expensive improvements (such as drainage at 5*l.* per acre) for the equal benefit of another. In ordinary farm leases the landlord does wholly or in part these improvements; but it is otherwise in church leases, for at the end of seven years the lessee may a second time have to pay for his improvements, in the shape of a fine increased in proportion to their value. Again, the estate may contain brick earth, chalk, stone, coals, and other minerals, which neither the lessor nor the lessee can by law open and convert to their joint or separate advantage. The inconvenience of this divided interest in quarries and minerals daily leads to the doing of that by an illegal agreement which the law forbids, but of which nobody complains, because it is beneficial to the only parties who are interested. In these cases the lessors and the lessees divide the resulting benefits; and any attempt to arrange the interests of parties similarly circumstanced must be by a division of the accruing benefits between the two parties interested.

The recommendation to a continuance of the present system is, that by it the property of the Church is mixed up with that of the influential portion of the laity, which is, perhaps, the best safeguard the Church can have. But if this is to be departed from, and the relation of landlord and tenant no longer continued, there are three ways of dealing with the present interests of the Church. The first is for the Church to sell their interests to the lessees for a sum in gross, or for an annual payment of equal value. The second is for the lessees to sell their interests to the Church; and the third is to let the leases expire by effluxion of time. The last suggestion would bring such great inconvenience to the lessees, and so affect the engagements entered into on the faith of renewals, that it can hardly be seriously entertained, apart from the consideration whether it would be beneficial to the Church to separate their interests from that of the class who are at present their lessees, and whether it would be wise to proclaim the amount of the then rack rental of these estates, and to come in personal contact with the occupying tenants of the lands. The second suggestion, that the Church purchase the interest of their lessees, would give rise to so great a difficulty in finding the money necessary to purchase up the various interests of the present holders, and such difficulty in dealing with the property under all the various forms of settlement, charges, &c. as to make it almost impossible to carry into effect any such proposition. It remains to consider the first proposition, namely, a surrender of the lessor's interest in the land upon receiving a consideration in money or rent-charge payable out of the land of equal value. Supposing it to be a sum in gross, what disposition can be made of it, but by investment in the funds, to which there are various objections; among others, that in time of commotion or national difficulty it can more easily be appropriated to other purposes than a rent-charge; and a sale for money down would, from the amount of the property required to effect the change, disarrange the money market and injuriously affect property in general. The most feasible and least objectionable plan, if the relation of lessor and lessee is not to continue, would appear to be that which has been acted upon with reference to the commutation of the tithes, namely, to commute the lessor's interest into an annual rent-charge. It is obvious in any arrangement the values of the respective interests of the lessor and lessee must in the first instance be ascertained; not fanciful or imaginary value, but their actual and known marketable value. Much misconception exists as to the position of the parties. The lessors and those who advocate their interests treat the estate which is leased as wholly theirs, and the lease as a mere incumbrance which they have a right to get rid of; a sort of inferior interest hardly worth consideration, and not to be weighed by the same scales as their own. But how is the fact? The lessor and the lessee have each a separate interest, which together constitute the whole. The lessor can no more deal with the entirety than can the lessee. In the case of estates let on leases for lives, or for forty years or thirty years, the interest of the lessee is always far greater than that of the lessor; and even in the case of a full twenty-one years lease the interest of the lessee is equal in value to that of the lessor. A lease too is a partial sale; and if the amount of interest is to regulate the superior ownership, the lessee of church property has more frequently the larger interest of the two. The want of a right understanding on this head has led to a different view by each party of their respective positions; and another difficulty has arisen from acting upon speculative opinions as to value rather than the marketable value or prices which such like property realizes on sale. Sales of land and interests in land, including leaseholds and reversions, are, like the public securities and shares, of daily occurrence. If we seek to know the value of a commodity, be it stock or shares, we look to its value in the market, and we do not ask the opinion of individuals as to what ought to be the value. Who asks an actuary what he should sell a farm or a house for; and, if not, why do so to know the value of a partial interest for life or in reversion? The advocates of the Church, in the case of an estate let for twenty-one years at 10*l.* annual rent, and worth 100*l.* a year, would say, with truth, that the value of such an estate for sale, if freed from the lease, is twenty-eight years purchase, or 2,800*l.*; but, advocating the interests of the lessor, they would deduct for the tenant's interest what it would realize in the market separate and distinct from the reversion, and say that the residue is the value of the lessor's interest. In figures their proposal would work out thus:

Value

	£	s.	d.
Value of an estate worth 100*l.* per annum (after allowing for proper deductions), twenty-eight years purchase, or	2,800	0	0
Deduct value of the lessee's interest in a full term of twenty-one years, subject to a reserved rent of 10*l.*, at the market value or by the five per cent. tables, being twelve years and three quarters purchase of 90*l.* per annum	1,147	0	0
Alleged value of the lessor's interest	£1,653	0	0

The lessee for twenty-one years, on the other hand, with as much and no more reason, would ascertain the market value of the reversion, and deduct it from the 2,800*l.*, and say that the residue is the value of *his* interest as lessee, thus:

	£	s.	d.	£	s.	d.
Value in possession, as above				2,800	0	0
Deduct value of the lessor's interest, namely the reserved rent of 10*l.* per annum, at twenty-eight years purchase	280	0	0			
The value of a reversionary interest (to fall into possession at the end of twenty-one years) at the market value is seven years and a quarter's purchase of the annual value (less the reserved rent), being	652	10	0			
				952	10	0
Alleged value of the lessee's interest				£1,847	10	0

It will be seen by the above estimates of value, that each party seeks to appropriate to himself solely, the benefit to arise from a junction of their two interests; and hence the difference in their respective estimates of value. For the purpose of commutation it would be right to reject both, as equally unjust and unreasonable; and to divide the additional value which will follow the union of their respective interests in proportion to the market value of each when held separately. Thus, in the case of an estate worth 100*l.* per annum paying 10*l.* per annum rent:

	£	s.	d.	£	s.	d.
The estate at twenty-eight years purchase is worth				2,800	0	0
Deduct (as not questionable) the value of the reserved rent of 10*l.* per annum (being a freehold rent in possession, at the same rate)				280	0	0
Aggregate value of the lessor's interest in reversion (exclusive of the rent) and of the lessee's interest in possession				2,520	0	0
The market value of the lessor's reversionary interest, ultra the 10*l.* per annum (being 90*l.* a year, to pay a purchaser five per cent.), is seven years and a quarter's purchase, or	652	10	0			
The value of the lessee's interest at the same rate is twelve years and three quarters purchase, or	1,147	10	0			
				1,800	0	0
Difference				£720	0	0

This difference of 720*l.* should be divided in the proportion of 1,147*l.* 10*s.* to 652*l.* 10*s.*, thus giving to both (in proportion to their respective interests) the benefit to accrue from the junction; (viz.)

	£	s.	d.	£	s.	d.
As to the lessor:						
Value of the rent of 10*l.*				280	0	0
Value of the reversion of 90*l.* at the end of twenty-one years, at five per cent.	652	10	0			
His proportion of additional value gained by a union of the two interests	259	12	0			
				912	2	0
				1,192	2	0
As to the lessee:						
Value of twenty-one years lease, at five per cent.				1,147	10	0
His proportion of the additional value				460	8	0
				1,607	18	0
				£2,800	0	0

Having

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Having ascertained the market value of the interests of the lessor and lessee, and divided between them the benefits to accrue from a junction of their interests in proportion to the respective values; if the commutation is to proceed on the basis of a yearly rent-charge, it remains to be considered what the amount of that rent-charge should be. It would seem fair to base it upon the calculations adopted in ascertaining the value of the reversionary interest when joined to the leasehold interest; thus:

	£	s.	d.
The rent of 10*l.* will without alteration in amount be commuted into a rent-charge of the same amount - - -	10	0	0
The 912*l.* 2*s.* (being the market value of the 90*l.* per annum in reversion, and of a share in the improved value consequent on the junction of the two interests commuted into a rent-charge,) at the same rate of purchase, by which the reversion of 90*l.* is estimated at 912*l.* 2*s.*, will give about - - -	32	12	0
	£42	12	0

The Church will thus get a rent-charge of 42*l.* 12*s.* in possession for their present income of 31*l.* 10*s.*, (viz., 10*l.* from rent, and 21*l.* from fines computed at one year and half value,) being an increase of 28 per cent. per annum.

The lessee, instead of 90*l.* per annum for twenty-one years with the expectation of renewal, will get an estate in fee, subject to 31*l.* 10*s.* per annum, yielding an income of 58*l.* 10*s.*, subject to expenses and duties consequent upon the ownership of an estate let at rack-rents.

The same result can be arrived at by a simple operation applicable to every case; (viz.) valuing the reserved rent at twenty-eight years purchase, and the reversion by the five per cent. tables, and then computing the substituted rent-charge at the same high rate of interest, and adding it to the reserved rent; thus:

	£	s.	d.
Value of the lessor's interest in the rent of 10*l.* per annum, at twenty-eight years purchase - - - - -	280	0	0
Value of the lessor's interest in the reversion, at five per cent. -	652	10	0
	£932	10	0
The present rent of 10*l.* to remain - - - -	10	0	0
652*l.* 10*s.* at five per cent. will purchase a rent-charge of - -	32	12	6
	£42	12	6

(*The Witness.*) Here I would mention, that, generally speaking, in Kent, where leases are granted by the Dean and Chapter of Canterbury, (and I only speak with reference to them,) they consider that the terms of their letting discharge them from obligations usually felt by landlords, such as contributing to schools and other charities. In a case in which I receive the rents of an estate, the lessee subscribes annually to the school, and a sum towards the erection of the school-house, and every year blankets are given away. I have asked when I go down, "Have the dean and chapter given anything?" and I have been told not.

844. Although the Dean and Chapter of Canterbury do not give any blankets, are you not aware they do contribute to the schools?—No, I am not. I will now go on with my statement. There may be mines or quarries or lands which may *hereafter* be used for building purposes, and it may be asked, Is not the lessor to have some consideration for the relinquishment of those advantages? (Where they are at present worked, the annual value is in part composed of the proceeds by such working.) This prospective value, it must be remembered, neither party is now solely entitled to; and, legally, neither can take advantage of it, even with the consent of the other. How can it be estimated what may be the value of a possible or probable case of minerals hereafter to be found, which may or may not be worked to a profit? It cannot be the subject of a valuation, because there is nothing to guide the judgment; but such cases may be reserved and be dealt with under some special rule hereafter to be laid down, like the special cases reserved by the Tithe Act. But how are we to get at the annual value, which is to be the basis of calculation, upon which to ascertain the amount of the rent-charge? The same difficulty arose in considering the question of the commutation of tithes; the question there was, whether the legislature should ascertain the amount by valuation, or take the sum which had been paid and received in lieu of tithes. The latter mode was preferred, as being the estimate of value agreed upon by the payer and receiver; but to guard against extreme cases a discretion was given to the Tithe Commissioners to add or deduct, not exceeding twenty per cent. In like manner the rents reserved and fines paid upon all bonâ fide lettings (computing interest on such fines); or if preferred, when the lands are let at rents, the sums paid by the occupying tenants, might be treated as the annual value. And where the property

property is in the hands of the lessee the annual value may be ascertained either by reference to the poor law valuation, where it exists, or with reference to rents paid for land of similar quality in the same and adjoining parishes (after making proper deductions), as in the case of the Tithe Commutation Act. Timber, when it is reserved to the lessor, or when the lessee has not the right to fell it, should be valued and form an addition to the purchase money or rent-charge to be given for the extinguishment of lessors interest in the lands. In the case of life leases, where there are under-leases for the same lives (wanting a day or some other short time), and the property has been divided by the lessee (as in the west of England), a difficulty is created which can only be overcome by special provisions. Nothing, however, appears to prevent the commutation from being extended to all kinds of leases upon the principle here suggested. That principle is to ascertain the market value of the lessor's interest, subject to the lease and the lessee's interest in the lease, and then the market value of the estate as an entire interest, to divide the excess value in the latter case between the lessor and lessee, and convert the lessor's interest, so ascertained, into a rent-charge calculated at the same rate per cent. as is adopted in ascertaining the value of the lessor's interest.

845. You are of opinion, are you not, the division ought not to be equal, but in proportion to the respective interests?—Yes. I consider the lessor and lessee as joint owners. We lawyers treat a lease as a partial sale, and so it is. If a common lease for twenty-one years be a partial sale, much more so is a lease for three young lives, for you have sold nine tenths of the extreme value. They have separate interests, which may be brought together much to the advantage of both parties. I do not think that any such union of the two interests ought to be enforced without dividing the accruing benefit. Supposing the Church mean not to let their leases run out, you must do something; and it is no use passing an act which cannot be carried out.

846. How would you practically ascertain the market value, varying as it does in different parts of the country, and at different times, according to the different rates at which the Church bodies have from time to time let or are letting their lands?—The Legislature must lay down a rule by which to get at the annual value, whether by a valuation with reference to the rents paid for land of the same quality, and in the same neighbourhood (where owners occupy the land), and by a seven years average of the rack rents paid by occupying tenants (making proper deductions) where lands are let, or by adopting in both cases the past dealings of the parties, and taking the reserved rent and the last fine, as together constituting the annual value. I think the former the better mode, as not operating to the injury of those who have taken fines calculated on a low scale, and perhaps by a low estimate of value.

847. You are aware in this case the value is of a peculiarly delicate and fugacious nature, depending on the estimate of the probability of renewal, and that estimate will vary very much according to circumstances rather difficult to appreciate beforehand, and therefore the question would be, would it not, whether you should take it at the value which such expectation of renewal would have conferred on the property previous to any of these investigations, or as it now stands, or as it would stand ten years hence after certain legislation should have passed on the subject?—If my plan should meet with the approbation of the Commissioners so far as to induce them to look into it at all, they will see I get rid of that difficulty; in truth it cannot arise. According to my plan I act on the interests as I find them, and divide between the parties the difference, be it what it may, between the estate united and their separate interests. I put no value on the chance of renewal as such; I give that in the division.

848. Do you make a tabular value to a certain degree of interest of each party?—No, it is a comparative value.

849. Do you value the lessee's interest as a dry term, with no expectation at all, but merely seven or fourteen years, or whatever it may be above it?—Yes; and the value of the lessor's interest in the same way as a dry reversion; and, as it strikes me, that is the great recommendation of the plan. My compensation for the chance of renewal is the benefit given by the division proposed.

850. How would it operate with regard to cases of leases on lives?—Precisely the same course would be pursued.

851. You must then go back to your actuaries, must you not?—No, I should not; although I have great respect, personally, for many of the actuaries.

852. How would you escape from the actuary?—If you were to go into Devonshire or into the north, where I am told these things sell very well, you would ascertain, practically, from half a dozen land surveyors or auctioneers what the market value of the property is; and I propose that you adopt it as a general rule.

853. How could you escape from the uncertain element of the possibility or probability of renewal, because in the actual selling price that probability of renewal always enters, and if that element is disturbed how can you escape having recourse to actuaries?—I have given an answer which I did not mean to do, and on correction I would say I should have

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have no valuation of any sort. My principle is, to value by the five per cent. tables each interest, making twenty years purchase on both interests when held separate.

854. And then do you mean taking the tables to show what that is?—Yes; not what the value ought to be, but what it is at that given rate. It is matter of computation.

855. Must you not come back to the actuaries for that?—No; I could tell what it is very easily.

856. Does it not come back to the actuaries work?—An accountant's work I should say rather.

857. Is it not the work of an actuary in print instead of by word of mouth?—I speak with some diffidence; but I think not. It will be found the leasehold interest in leases for lives is so much greater than that of the reversion, that when you come to divide the difference between the aggregate of those separate valuations and the value when united, you would give a greater proportion to the lessee for lives than you would to the lessee for twenty-one years, and thus amply compensate him for his greater expectation of renewal.

858. Must not a calculation of this kind depend on the rates of interest you take?—No.

859. Do you assume a given rate of interest, and twenty years purchase?—Yes; five per cent.

860. Do you reckon, one with another, a life lease or twenty-one years lease generally will sell according to the five per cent. table?—Yes.

861. And the reversion will also sell at the five per cent. table?—Yes. I am speaking of land in the south.

862. How can you apply that to lives exactly?—A calculation by the five per cent. tables does not mean it is to result in twenty years purchase; it only means this, that in valuing an interest, whether for life or years or in fee, you do it upon the supposition or principle that the purchaser will be satisfied to get, or the vendor satisfied to receive, that which will pay a return of five per cent. Life leases will sell for more, but that will but little affect the result, as the holder of such a lease will get a much greater share in the benefit to arise from the estate being made a fee simple estate in possession than the holder of an estate for twenty-one years will do.

863. Do you mean the only element then the actuary has to contribute is the rate of mortality which he takes as the basis of the probability of life?—Yes, the particular table that is to guide you in your calculations. If you were here sitting as Commissioners for commutation upon my principle, I should place my lease before you, and say, "Such are the ages of the lives;" and give evidence that the lives are in being. The Act of Parliament would lay down the rate of value, and you would see by the table what, at that rate, would be the value of the lessee's interest. The next operation is to value the reversion, subject to those lives, in the same way and by the same table.

864. Is not that table, to which such Commissioners would refer as authority in this case, based on an element which you dispute so much, the efficiency of actuaries calculations in general?—I would drop the term "actuary" and take up that of "accountant"—life tables worked up by accountants; it is really and truly matter of calculation. An accountant, or one used to calculations and figures, ascertains, in a given district, the number of births and deaths in a given time. He traces each from birth to death, and then, by taking certain averages, he is enabled to estimate the probable duration of life. This result is published, and calculations are worked on them; and that is the actuary's province. He acts on the tables published as any one else can do. You get from the book the value of the lives at the rate of interest agreed on, and in two minutes you see what the value is according to those tables.

865. Does the actuary always take a supposition of interest at a certain rate?—Yes, and by it frame his table; that given, any common clerk can at once state the value by reference to the table.

866. Would it not be of great importance what tables of mortality you took in such cases, and what the probability of life which you would assume?—Yes; it would certainly.

867. Are you aware there is great difference among actuaries in that respect?—There is some difference, but that would not make above one year's purchase, I expect.

868. Will you proceed with your statement?—I go on to say, it will be seen that the computation is founded on the assumption that the separate value of the lease and reversion, if exposed to sale, will not produce more than twenty years purchase for the whole, (in other words, that purchasers of such interests expect to make five per cent. of their money,) while the value of the entirety is twenty-eight years purchase. If any scale of value be adopted less than twenty-eight years purchase there is a difference between the separate values of each and the value of the whole, and that difference is the loss in value resulting from the present system of management, which I propose to divide between the

the parties in proportion to their several rights. I may add that the lower the rate of interest the higher will be the rent-charge; thus,

	£	s.	d.
at 20 years purchase, or by the 5 per cent. tables, it will be -	42	12	6
at 25 years purchase, or by the 4 per cent. tables - -	49	12	0
at 28 years purchase, or by the 3½ per cent. tables - -	54	0	0
at 33 years purchase, or by the 3 per cent. tables - -	58	10	0

It is observable that the lower the rate of interest the higher will be the rent-charge, and that any increase of the annual rent-charge will diminish the rate of value of the lessee's interest in the estate, while the rate of value of the rent-charge itself will remain stationary.

—	Amount of Rent-charge.			Value of Rent-charge at 28 Years.			Residue of annual Value.			Years Purchase of such Residue.	Saleable Value of Residue.		
	£	s.	d.	£	s.	d.	£	s.	d.		£	s.	d.
At 5 per cent. -	42	12	6	1,187	10	0	57	7	6	25	1,434	0	0
At 4 per cent. -	49	12	0	1,383	10	0	50	8	0	24	1,209	2	0
At 3½ per cent. -	54	0	0	1,512	0	0	46	0	0	23	1,058	0	0
At 3 per cent. -	58	10	0	1,638	0	0	41	10	0	22	913	0	0

The saleable value of the lessee's present interest in rent and reversion being 932*l.* 10*s.*, and the same value of the lessee's interest in the lease without any value attached to renewal being 1,147*l.* 10*s.*, it will be seen by the above that at 5 per cent. the tenant will get 296*l.* 10*s.* or 22 per cent. for the benefit of renewal, and the Church 255*l.* (or above 25 per cent.) above the saleable value of the rent and reversion. The 4 per cent. table will give to the tenant 61*l.* 18*s.* (or only about 5 per cent.) for his benefit of renewal, and to the Church 451*l.* (or nearly 50 per cent.) above the saleable value. The 3½ per cent. tables will cause a positive loss to the tenant of 89*l.* 10*s.* (or 7½ per cent.), and a gain of 580*l.* (or 62 per cent.) to the Church. And the 3 per cent. tables will take from the tenant no less than 234*l.* 10*s.*, (or above 20 per cent.), and improve the Church property 705*l.* 10*s.* (or 75 per cent.) at its saleable price, (viz.) by the 5 per cent. tables.

Any attempted commutation therefore based upon calculation at a lower rate of interest than 5 per cent. must fail, as giving to the lessee no sufficient compensation for the expectation of renewal.

Where the value of a thing is given, and the amount of that value is to be divided among many interests, the computation of the comparative value of each interest may properly be left to gentlemen versed in abstruse calculations; but experience teaches that it is a mistake to consult them as to the actual value of any property; their opinion has no reference to what is the marketable value, but what the property ought to produce according to some preconceived notion of their own. In this case it is not improbable that actuaries will say, that, with the Funds at 90, land and interests in land *ought* to be worth thirty years purchase, or more, and base their calculations on the 3 or 3½ per cent. tables, which lead to the results before stated. Ask an actuary the value of a life interest in 1,000*l.* consols, then selling at 90*l.*, and the opinion will be about double what it will realize on sale. So again of the reversion. This is now so well understood that men of business usually refer these things to the parties who sell such like interests. The other course will lead to deception and disappointment in nine cases out of ten.

869. Supposing a person selling a lease, what is the value of the dry term of that lease?—It will depend on the individual's notion when he goes into the market to buy. If you are going to sell out consols which only give you three per cent., you may think yourself well off if you get four. A man paying off a mortgage at four would expect four; a merchant who says, I can deal with my money in trade, would expect to get five. These things have a marketable value; when put up for sale that value is found, as it is in corn or railway shares.

870. What is the marketable value?—Generally, I should say, to pay a purchaser five per cent.; that is, at the rate of twenty years purchase for the entire interest.

871. What for the dry term of the lessee?—That is worth twelve and three quarter years purchase only.

872. What would be the value of his share in the entirety?—That I have not worked out.

873. Selling the dry term when he comes to share the entirety, would not the lessee get either fourteen or fifteen years purchase?—Perhaps so.

874. Would not the lessee, upon these suppositions, in round numbers, get five and the Church three out of eight?—It may be so; it will depend on the length of lease.

875. On what ground is it you think the lessee has an equal right to benefit with the lessor? The lessor is not benefited in any way by it, except the degree in which the property

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perty is increased in value; the lessee is benefited, as he has got a permanent interest; it becomes his property?—The lessee has acquired some advantage, or he will not deal.

876. The lessor does not acquire any, does he?—Yes, he does.

877. What advantage would the lessee get?—If it be meant as a dry question, whether the present system of managing Church property does produce as much as could be produced, unquestionably it does not; if you ask me if I could devise another mode by which to produce more, I say I can if you will set aside all other considerations, and think only how much money you can hereafter make by letting the leases run out.

878. Supposing it was sold, and the dean and chapter would be content to receive what they receive now, and that the lessees would be content to receive what they receive now, that eight years purchase which you are speaking of, instead of being divided between the two, ought to go into the Church at large, ought it not?—That would depend upon whether you will let the leases run out; on no other principle could you get it.

879. You are giving less to the Church than the lessee, are you not?—Yes; but I only give in proportion to the interests of each. Could it for a moment be supposed that a lessee will take on himself all the responsibility of the lessor and all the duties of a lessor, and all the chances and expenses a landlord is subject to, (and possessors of real property know what they are, certainly not less than one per cent.,) and get nothing by it?

880. Is there not the acquisition of game which ought to be calculated?—That would apply to a gentleman or nobleman; it would not apply to the individual who tills the land; as in a great many instances in Kent. Farmers are not men looking after game, but hard-working men seeking to get their living.

881. Suppose you made an allowance for those advantages, whatever they may be, one or two per cent., do you see any objection why the increase of value which is gained by selling the entirety should go neither to the lessor nor to the lessee, but to the Church at large, for the purpose of the community and the public, for endowments and so on?—It seems to me to depend simply on the question whether the Church will throw overboard considerations which have heretofore been thought important, and all the confidence which has been placed on the Church, and in the continuation of those leases which have been renewed for centuries, and say, You have no claim on the Church for our consideration; we turn our backs on you, and will get as much out of the land as we can, without reference to the lessees.

882. Are you aware the Crown did exactly the same thing, and has been running out its leases?—Yes. I should say the Crown is very differently situated; that does not touch on any question of policy; and Crown leases never were dealt with as Church property has been. I had the honour of being consulted by some parties of the Church on the occasion of the proposed tithe commutation. I said, "It is the worst thing you can do if you suffer your interests to be divided from the land. Give gentlemen a feeling for you and your interests, and let their property and interests be wound up with yours." In that respect the present holding is not objectionable, if you could define it by some certain terms of renewal. I think the Church has been injured from squabbles taking place about their fines.

883. You say eight years purchase is lost by the present footing on which Church property is dealt with, do you not?—Yes; lost to the public or the parties.

884. Do you propose to divide those eight years now lost between the lessor and lessee?—Yes.

885. I want to know whether you would agree that this might be done, to divide it with neither one nor the other, but to give it to the Church at large?—Yes; you can do that by the total extinction of the interest of the lessee, not otherwise.

886. Suppose the lessee's interest was to be considered every twenty-one years, how would that act?—You would have the Church disputing with the occupying tenant what they ought to pay every twenty-one years instead of each seven.

887. By the Church, do you mean the Church Commissioners?—It would be so onerous a duty that the Church must throw it off its own shoulders.

888. It would not be individuals, it would be a body representing the Church at large, would it not?—After all it only comes to this: will you throw over the tenants altogether, or will you induce them to do that which is beneficial to you, and which should be equally beneficial to them, and create, (for it is a creation,) a new property in the resulting improvements.

889. How would you propose to make the division of the eight years purchase; must you not sell the property?—No.

890. You would treat it just as if you had sold the property, would you not?—Yes. Supposing you had converted the broad acres into money, you would then have for the estate, say worth 100*l.* a year, 2,800 sovereigns on the tables, which you would propose to divide. If you had never discussed the principle of division with anybody, and were to be asked how the money should be divided, your answer would surely be, "According to their interests."

interests." Decide then what the value of their respective interests are, and then it is settled.

891. A value ascertained simply by valuation is not a very satisfactory one, is it?—I do not go by valuation.

892. Unless you have actually sold, how do you get at the real value?—The legislature are to lay down the broad principles by which the value is to be ascertained, and you would, as Commissioners, if you had to execute the Act, offer to me, the lessee, the terms. When I come to you you say, "Our terms are twenty-eight years purchase for the rent, and twenty years purchase for the reversion in fee." If I assent, you ascertain the dry interest of the lessee and the dry interest of the lessor, and the difference between those two interests and the twenty-eight years purchase you would divide between lessor and lessee, and say those are the terms.

893. You must sell the land, must you not?—Yes, you would sell the land to the tenant. The Church might purchase the lease in that case. The Church would ask the lessee to sell them his leasehold interest. What for, he would ask? Because it will enable the Church to gain 800*l.* But the lessee would reply, "You must give me some inducement; let me share in the 800*l.*" So that it would still be paying the lessor something beyond his dry interest.

894. As it is in the power of the lessee and lessor to agree together or not, would it not be, under those circumstances, fair to say, neither shall take advantage of that?—It might be, but then nothing could be done.

895. Although the lessee has an interest in it, that is not quite the same thing as a right; the Church has a positive right, has it not?—No more right than I should have as lessee.

896. You, as lessee, have a right for a certain number of years, have you not?—And the Church has only a right when that term is out.

897. Have you ever looked at all at the amount which would be the result of such a process produced for the Church; you say it would be an infinitely small proportion?—Do you mean the increase?

898. Yes?—No, it wants working out.

899. Is it your impression that the proportion of the lessor's to the lessee's interest in such a transaction would be very small?—It would be in proportion to his interest. The proportion would vary.

900. Do you mean to say the interests of the lessor are infinitely smaller than the interests of the lessee?—They are smaller.

901. Do you mean the proportion of the dormant value would be also smaller?—Yes, in the same proportion.

902. If you were to take a lease for twenty-one years, it has been said in this room that two fifths go to the lessor; take it upon a lease expired down to fourteen years?—Then the proportion would be the other way; then a greater share would belong to the Church.

903. Upon the result of the whole as to the surplus, is it not your idea, that the proportion existing in the hands of the lessee being such as you suppose, that the proportion according to your expection to be gained by the Church would be very small?—I have not estimated. I did not look at this to see how I could improve it solely for the Church's benefit; but how it could be divided fairly and justly for the benefit of the parties entitled.

904. Do not your arrangements go to the improving the lessee's property, which you are aware is no object of this Commission?—The answer I should make to that would be, that the objection would equally apply to any plan of dealing. Supposing you wanted to work mines or brick earth or quarry stone, which the lessor could not do, nor the lessee; for as the law stands neither could work it. Supposing that the lessor came to the lessee and said, "I have a mine in this property, or there is brick earth, will you let me work it?" he might say; "No, I will work it myself." The lessor would say, "You have no power." The effect of it would be that the lessor must arrange with the lessee, or all stand still till the lease expire.

905. Are not the Church saying to the lessee, "We are very unwilling to refuse a renewal "to you; we do not wish to injure your profits. We do not wish to benefit you more than "we do deans and chapters; if you like to be satisfied with the same interest, after the "division of the property you are now in possession of, well and good, we shall be satisfied; "if not, we must run out the lease?" and we give that option to the lessee, whether he likes to have the lease run out or be satisfied with the same property that he has now?—Under such circumstances, if by interest is meant the mere market value of the lease so as to pay five per cent., the lessee would let the lease run out,

906. Would not the Church be quite satisfied with that, if the lessee did not complain?—That comes to the proposition that was made just now. The alternatives are to make terms with the lessee such as are just, treating him as part owner, as he is; or let the lease run out. If you are prepared to do that, and heed not the lessees complaints that they have

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placed confidence in you and are deceived, nobody can doubt that is the most beneficial thing for the Church, as regards money,—looking only to that.

907. Does not your evidence proceed on the supposition that this property had been the source of great popularity to the Church; whereas is there any body of men with whom the Church are so unpopular as with the lessees?—I do not think that is so.

908. Are you aware that in the north of England provision is made between the lessor and lessee for opening mines?—No; and it is not so in Kent as to quarries, &c.

909. Would you take twenty-eight years throughout as the necessary value, or would you let the property be valued by some person competent to say its value?—I should take something like the price of funds, or, with reference to that price, whatever is considered to be the value of property generally, which could be regulated to some extent by the price of funds at the time. It would be hard in some cases but beneficial in others; and it must be so in every great measure. It was so in the Tithe Commutation. In Essex at this moment you may buy freehold property for twenty-five years purchase; in Berkshire you must pay thirty years purchase. I should propose twenty-eight.

910. Why should you impose a hardship on one or an advantage on another, which you would do if you took a fixed value?—I do not think it would be so to any extent. Whatever the scale of value you take, you would divide the result between the lessor and lessee, and they only are interested.

911. Is the number of years purchase matter of indifference?—Not quite; but I assume the same mode of calculation for each; I treat the lessor and lessee as co-owners. I make no distinction between them; for neither can realize without the other.

912. Whether a thing is estimated at 2,000*l.* or 3,000*l.* is of some importance, is it not?—It cannot come to a great difference like that. Suppose your annual value was 100*l.* a year, at thirty years purchase instead of twenty-eight years purchase you have two years difference; but that is to be divided between the lessor and lessee in proportion to their present interest, and in a full twenty-one years it would be about equally divided. The years purchase of the fee should be declared to be such as would give a fair average of the kingdom, or of each county, as fair as can be, and as near the truth. This could be got at by the results of sales.

913. If I understand, what you lay down is a principle that may be applied whatever is the value?—Yes.

914. My question is, whether you would not try to get the best value?—I have always found the more general the rule by which you can work the better; perfect accuracy, if you can get it, is the best. But care must be taken that you do not stop the working altogether by too refined a process.

915. Supposing there were dormant values lying in the land, you would not sell that at the rate of common land, would you?—Not if you could estimate those dormant values, which you never can. If attempted, it must be done in the dark. I should rather take the precedent of the Tithe Commutation Act, and say, if there were special cases of dormant value, such as mines, &c., for which the lessor might think he had special claims, "Do not act on the general principle, but make it a special case, leaving the Commissioners to frame some rule by which to deal with it."

916. Are you not aware that dormant values are, in the north of England, estimated both by the Church and private individuals in certain districts where it is probable there are mines, and that they are leased at what are called a sleeping rent, so that the mines may be opened at any time, but they take their chance of that?—That may be so, but how can you value it now? A man may make a fortune or ruin himself by them. The Tithe Act managed it in this way: in Kent hops are grown; if land does not produce hops it pays only the common tithe; as soon as hops come into cultivation down comes the additional hop tithe upon it. Suppose a case of building land, opening a mine, or any great increase of value in the property; when that comes into existence let the clergy apply for a commutation of their interest. Keep the claim of the clergy open in that particular.

917. Does not that leave it open much beyond your plan? Your plan puts an end to every thing at once, as I understood?—It would be very desirable, as far as you could. If mines, &c. create any serious objection, I should provide for that as the Tithe Act did, specially.

918. Have you had any experience of the result of compulsory sales to railways?—Yes.

919. Have you ever known a case in which property held under the Church has been so compulsorily sold?—Yes; I have.

920. Do you know the way in which the money is divided in case such sales are made?—I should rather speak upon any thing than the disposition of property and what has taken place with railways; I look at it as a system of plunder from beginning to end, to get as much as can be got without any calculation confined to value.

921. As between the parties themselves, who are sellers, of course they may possibly wish to plunder the railway; may it not be supposed they could hardly wish to plunder each other?—I know of no case in which the two interests have been dealt with together.

They

They generally deal with the lessor and lessee separately. They always make up the lessee's interest in a lease with his loss on occupation, severance, &c.

922. Have you had any thing to do with tithe rent-charges under leases, that is to say, with leasing them?—No. I cannot conceive any reason why the Church should grant leases of tithe rent-charges.

923. What are the grounds of distinction you would draw between the two cases?—There is no inconvenience, no loss, and no increase or improvement of property in tithe rent-charges which can be consequent on uniting the two interests, it is already a rent-charge. By and by the legislature should enable the lessors entitled to rent-charges to give notice to the lessees in what way they mean to deal with them, so as to enable the lessees to regulate the interests under marriage settlements and wills which are existing. If that is not done, it would be a hard case and produce much evil.

924. Are not tithe-rent charges made part of family arrangement?—Yes, the same as tithes; they are the substitution for tithe. But I do not think there is any general expectation on the part of the public that they will be continued in lease, they see no inducement for it. The present tenure of land is a bar to improvement, but that does not apply to a tithe rent-charge. The question is, whether you continue this system as regards land or abolish it altogether. If you mean to let the lease run out, that is another view of the question.

925. Do you think a heavy reserved rent would be a very unpopular thing?—Do you mean a rent-charge?

926. Yes?—No; I think as far as our county (Kent) is concerned, it would be the best thing that could be done. I think with the gentlemen of large estates it would not be popular. If a nobleman has to pay a sum down for a property, it is mixed generally with his estate. If he has a heavy rent-charge to pay, he may have a tenant who breaks, runs away, or becomes insolvent, and then, if he comes to make an abatement to his tenant, (which gentlemen of that class are most liberal in doing,) there is a distinction created between the rent-charge land and the other, because he gets no abatement of his rent-charge. I do not think the great landholders would like it so well, but many, I should fancy most, persons would certainly prefer it.

927. Do you think there might be a plan by which a rent-charge might be one of the options submitted?—Yes.

928. Or of renewing on other terms; that is, giving some diminution of interest for a certainty of renewal; what should you say to that?—I should only recommend the Commissioners, if that were thought of for a moment, to let those terms of renewal not be as they now are, uncertain whether one and a half or two and a half years purchase, but define it, so that a man may know what his position and tenure really is. If it be desirable that the Church should lease their estates, let the terms be such as shall always ensure a continuation of the leases.

929. I understood you to say, in the district with which you are most conversant, the lessees occupy themselves the land?—Yes, that is so.

930. In the north of England the generality of lessees are large holders; the leases are in the possession of the gentry of the country. Would not such lessees as those object to your view, namely, an increased rent, and would they not rather go on fining in the way it now is?—I do not know what they would do in the north.

931. You having spoken of a nobleman, you state he would think less of paying a sum of money for his septennial renewal, than he would of paying a considerable rent-charge, which might come in upon him after he had forgiven a tenant a portion of his debt; would not that apply in the same way to the gentry in the north, the possessors of these leases?—It might. It is now often an inconvenience to a gentleman to have a large fine to pay, particularly a young man who has just come into possession of his estate.

932. Do they not attach great value for the territorial game?—Yes.

933. How would you meet the difficulty when the estate was sold and broken up, with regard to apportioning the rent-charge?—I would not allow the rent-charge to be broken into small sections, and if it were I would put an extra five per cent. to cover the expense of the Church. I do not see any reason why it should be broken up at all.

934. Take a rent-charge on 1,000 acres, that may be sold in several divisions of it?—Yes; and so may a present interest in the lease; but I do not see why it should be divided. The Church are entitled to it as a whole now, why should they not be entitled then? They would have a right to say, "You shall not break it unless you make it worth while."

935. How is that consistent with the object, which is, to set land free?—The rent-charge does not bear any proportion to the extreme value of the land. It is only the ordinary case we have in London every day, of many houses subject to the same rent-charge.

936. Are they liable proportionately?—No, although it would appear to be a great inconvenience, it is not. I have known a title objected to on that ground, still it is done every day.

937. Practically,

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937. Practically, every house in the case last put is liable to the entire rent?—Yes.

938. Do you mean every piece of land would be liable to the whole rent-charge in law?—Yes. And it does strike me, if the Church give up what they have a right to, the Church are entitled to consideration for it.

939. If the fee is to be conveyed to the lessee, do you think he ought to have the power of breaking it up?—Yes; acting in a way something like the redemption under the land tax. If you want to redeem land tax they make you pay five or ten per cent. extra. You must have a commission almost perpetually sitting in some form or other to carry out any plan, to whom I might come and say, "I want to break a rent-charge in two parts." The Commissioners would say, "You must pay five or ten per cent." If it is convenient to me to break it up under those circumstances, I do it; if not, I cease applying. If I break it up on those terms the Church gets a quid pro quo.

940. Are not the seal fees for an estate of 500*l.* or 600*l.* a year, or for a house of 15*l.* a year, pretty much the same, 11*l.* or 12*l.* or 15*l.*?—I do not know what they are.

941. Are there any means by which you could meet the difficulties of having tithe rent-charges in settlement, supposing you proposed to run them out?—It would of course create the same difficulty as in the other to some extent, except, as far as I am able to say, the opinion has prevailed most strongly, almost universally, with regard to tithe rent-charges, that they would not be continued in lease. I have always declined to put them into settlement, and I rather think that has been generally acted on.

942. Do you mean since the time they have become tithe rent-charges?—Yes. If you were to say, after twenty years or after a given time, there should be no such renewal, but that you would run out all the existing leases, it might be done. The great hardship would be in a case where by will or settlement a provision is made for a wife and children, say, to each of the girls and younger sons 1,000*l.*, and to the eldest boy the residue, subject to a life estate to the widow. The girls marry and take their 1,000*l.*, but the eldest son can take nothing till the widow's death, and she may outlive the duration of the lease. The will is made under a conviction the lease will be continued and wear out the widow's life, when it would fall to the son. You would have cases of this sort as to land and tithes which would be most cruel ones, considering the mode in which this kind of property has been dealt with. It is not a mode adopted in defiance of the law; it is not a mode the Church has fallen into inadvertently; it did not originate in the public taking advantage of the Church. The legislature have from the earliest times recognized it as *the* mode of dealing with church estates from the time of Henry the Eighth, when the first act passed, and previously to that Act these church leases were in force, although they had not then the authority of the legislature. They have been continued down from that time to the present.

943. In all cases must there not be some covenant or some security that the money will be forthcoming for renewal, as in the case of settlement there must be some provision that there shall be an arrangement in favour of the party interested?—Not any security as regards the lessor.

944. Must there not be security that the funds shall be forthcoming for the renewal?—Yes; a trust expressed or implied.

945. Would that be easily provided for?—Yes; it would be easily provided for by a trust in the marriage settlement to receive the rents to form such a fund as may be necessary. The Court of Chancery would act upon the principle of not letting a person entitled to a life interest into the possession of the whole; they would stop a certain portion of the rents to provide such a fund as would amount to the past renewal and any reasonable expense consequent upon it.

946. Then there is a fund accumulating, is there not, which by the hypothesis would be sufficient to purchase the renewal?—Yes; in that case there is.

947. Would then the amount of loss be to the party interested the difference between the value of that sum invested in the renewal or invested in any other way?—Yes.

948. But there the sum is available for renewal?—Yes; but if the party did not take the lease he would not have the accruing rent beyond the twenty-one years. In the case supposed there are ulterior trusts involved. There is a trust, for instance, to pay a son 100*l.*, and a wife 100*l.*, and so on.

949. It is only upon the supposition that you get a more advantageous investment in this form than any other, that a sum accumulated for that purpose is more available for that purpose than any other; is not that so?—No; it is not an uncommon case for a nobleman or gentleman in marriage settlements to settle freeholds and leaseholds together; it makes no difference between them as far as the law will allow; and as near as it can be it is done in the same form, so that the rents of the freehold and leasehold and the charge on the two will run on together, and a great difficulty would arise if the income from the leasehold ceased.

950. The questions I have been putting are with this view: there is, by the hypothesis, a sum accumulating, which is at a given contingency to be sufficient to buy this renewed interest, at the time the renewed interest is worth five or seven per cent., or whatever it may

may be. Take the case of 1,000*l.*; the loss by non-renewal would be, that instead of having seven per cent. for your 1,000*l.*, you must invest it in stock or some other security; but the 1,000*l.* is not lost, it is only that less interest is got; is not that so?—In truth you do not pay the fine; you have the fine in your pocket. You lose the lease, but you save the fine.

951. All you deprive the expectant of is the difference between this unusually advantageous mode of investment of a higher rate of interest and that which can be gained in some other way?—Yes.

952. Supposing, for instance, you were able to invest this 1,000*l.* in seven per cent. stock or railroad, or anything else that would produce seven per cent., you would be no loser by not being able to renew, would you?—The tenant for life would not, but at the end of fourteen years you have no lease to go back upon at all.

953. But have you not the same property out of which to raise another fine?—No, I think not; you may raise the fine, but it will not represent the property.

954. Supposing you were to get 100*l.* a year out of your renewal; you put by out of that 100*l.* a year 5*l.*, a proper sum to raise a fund to enable you to renew that 100*l.* You are unable to get that renewal, but you invest the 100*l.* in something, suppose as good. How are you injured by that?—Simply because you let two renewals pass by; a third comes, and the estate is gone, and there is an end of all income from it.

955. Is not the loss entirely in the different rate of interest you get for your money?—No, it is further than that.

956. You would have to put by a certain amount of your income to enable you to purchase the renewal. Suppose you made an investment in North-western shares, would not that enable you to do so?—In settlements a man would not be allowed to buy railway shares.

957. I want to ascertain what is the amount of the evil, and whether there are not means by which in such cases the legislature could provide at least some mitigation to enable them to buy reversions extending over the same period the questions have been referring to. They might not make seven or six per cent., but if they made four per cent., if it were made the duty of a trustee to accumulate that for the fines, if this system of renewal were continued, might not that mitigate the evil, if it did not approximate to a remedy?—I think the far better way is, if you make up your minds, these leases should run out at once to determine that, and declare the money you mean to give for the lessees interest, and then let those representing the estate in every way, life interests, incumbrancers, and reversioners, take what they can get. Supposing it is half, then there will be some left for those in reversion. The plan supposed in the questions would run out the reversion to such an extreme length that the son or grandson would not get that which was settled upon him, and indeed he might get nothing at all.

958. Is it more than buying the one reversion or another, although it may be a less advantageous one?—I think so.

959. Supposing you are able to go to the market and buy a reversion at four per cent., in this case you buy at seven; is it not the difference between the four and the seven?—That is no more nor less than selling one property and buying another. If property is put in settlement for a daughter who is to have a life interest, how can it continue if that only which it is paid ceases to exist.

960. Upon the supposition put, the daughter is provided for for the first fourteen years. When seven years have run out you have a sum prepared to buy the following seven years, but the law has stepped in, and said, "You shall not be able to buy those seven years, because "these renewals shall be at an end;" then may you not, for your daughter, or whoever it is you are providing for, buy a reversion to begin at the end of fourteen years?—In answer to that, I will state how the Court of Chancery would probably deal with these leasehold interests in case of different interests. If it were to be enacted, that from and after such a date no such lease should be renewed, they would probably ascertain the existing value of the lease in that year, and immediately stop the rents, make a portion of the income capital, and allow the tenant for life only so much as would amount to the interest of what would probably remain as capital at the end of the lease; they would not allow the tenant for life to have more in ordinary cases, unless a contrary intention appeared in the instrument creating his interest.

961. Have not all your calculations about laying by money for the fine proceeded upon the assumption that the money is to purchase the renewal?—Yes; that you are to get that which is beneficial, and that the lease should be kept up. If you destroy the benefit there is no further question about it. If you want to substitute another thing, another investment, which may be equally beneficial, the question is, Why should you make the substitution, and how can you do it.

962. Although persons resident in London might lay out money in the kind of way suggested by the questions as a speculation, do you think it would be allowed for trustees to do so?—No; the Court of Chancery would not allow it either for trustees or executors.

Mr. John Lake.

30th March 1849.

The following paper was put in by Mr. Lake:

The following will show the probable result of running out the lease of an estate worth 100*l.* a year, held for the full term of twenty-one years, paying 10*l.* per annum rent, usually renewed on a fine equal to one year and a half's annual value; and supposing that on the renewal being stopped, the lessee, as a prudent man, puts by the amount of fine which would have been payable if the lease had been renewed as heretofore.

	£	s.	d.
During the twenty-one years the lessees would receive 2,100*l.*, and pay 210*l.* The present value of this lease at 5*l.* per cent., is - -	1,147	10	0

	£	s.	d.
Fine payable at the end of the first seven years - -	135	0	0
Interest and compound interest at 5*l.* per cent. (being one per cent. above the market value of money, and nearly two per cent. beyond the interest in the funds, where the Court of Chancery would invest it) for fourteen years	122	0	0
Fine payable in the fourteenth year - - - -	135	0	0
Interest and compound interest for seven years - -	54	0	0
Fine that would have been payable at the end of twenty-one years - - -	135	0	0
	581	0	0

Thus the naked lease, which, without any value attached to the custom of renewal, was worth 1,147*l.*, at the end of twenty-one years is represented by 581*l.* under the most favourable circumstances of investment. The net income derived from the lease (after paying the rent and setting aside a fund to pay the fine) is reduced from 70*l.* or thereabouts to the interest payable on the investment of 581*l.* How this deficiency is to be borne, where there are parties entitled for life and in remainder, and where there are mortgages and annuities, the Court of Chancery can alone determine. Mortgagees will of course seize upon the entirety of the expiring rental, and hold it till they are paid. Annuitants will desire that the rental be set aside and appropriated as a fund to pay them; and if there be no mortgage or annuity, the party entitled to a life interest will claim to receive all the rents while the lease lasts, without setting aside anything, or, if anything, only so much each seven years as will produce the customary fine. Those entitled in reversion will seek to have the estate sold, and contend that the tenant for life is only entitled to the interest of the monies produced by the sale.

Amidst all this strife and confusion, it is not very difficult to see there must arise a vast extent of suffering. Widows and others entitled for life will lose all, or at least half, their usual incomes; or if that income is to continue, it will absorb all the interest of the parties (perhaps infant children) entitled in reversion, and at all events they will be deprived of 50*l.* per cent. of that which was provided for them, and in the expectation of which they have probably been educated.

All this, and the litigation consequent on adjusting the different and conflicting interests, will have arisen from the confidence the lessee reposed in the continuance of a custom which had existed without variation for 300 years, and had been sanctioned by the legislature during that time; and from the conviction, that if so old a system were altered by parliament, full justice would be done to the interest created under it.

There always must be difficulty in adjusting the rights of parties in every change; and there may appear to be some to the persons entitled for life and in reversion under my plan, because the life income will be reduced; but this can be set right by a charge in gross or for a term equal in value to the deficiency; that is, if the expectation of life be ten years, give an annuity of less amount for ten years, or the reduced annuity, and a sum in gross payable with interest on the falling in of the life.

The Dean of Carlisle.

The Dean of Carlisle examined.

963. It was intended that you should have been asked some questions about the capitular property and the mode of dealing with it, principally as to the policy of making it compulsory or not, or allowing a modified choice as to the dean and chapters becoming stipendiaries and transferring the management of their property to another body; but are not you now of opinion, in reference to communications made to you by the Ecclesiastical Commissioners, that you have that power?—Yes; what I intended to suggest was, that whatever regulations Government may impose with respect to the management of the property, it should be at the option of the dean and chapter to carry out those regulations themselves, or to hand over their property to the Ecclesiastical Commissioners for the purpose, and to receive

receive from the Ecclesiastical Commissioners their incomes; but this, I am informed, may be done as the law now stands.

964. Do you see any difficulty in so managing the property as to leave the dean and chapter a fixed income?—Supposing the property to be handed over to the Ecclesiastical Commissioners, if they have not funds in their hands sufficient for the purpose, they would be able to borrow upon the security of the property, so as at once to give fixed incomes to the dean and chapter. It would be necessary that we should hand over to the Ecclesiastical Commissioners, at the same time that we hand over the property, certain responsibilities, more particularly the responsibility of maintaining the fabrics; and in the same manner that the Commissioners would be able to raise money for our incomes, they might raise it, if needed, for repair or maintenance of the fabrics. There may be some little difficulty in settling the details of such an arrangement; in determining, for example, what the fabrics to be kept up are. The Commissioners might find a cathedral in a good state or in a partly ruinous state, and it would be matter of adjustment between the dean and chapter and the Ecclesiastical Commissioners what the Commissioners should undertake permanently to keep up and what not. This being determined, the dean and chapter might be left to raise money, by public contribution or in some other way, for work, ornamental and other, over and above the repairs and maintenance of the cathedral as the Commissioners found it or undertook to preserve it.

965. What should you say to this plan: that there should be a sum estimated as an average sum which was sufficient to keep the cathedral in a state of substantial repair, not speaking of ornaments, that that should be left to the dean and chapter themselves, and that it should not be laid out by any other authority, so that they should have the superintendence of the expenditure of it?—I see no great objection to it; but I think the other plan would be preferable, because you would still leave, according to your plan, the care of the fabrics to a body of men, who may or may not be the best qualified for the charge, and who may or may not be the best qualified for the application of the money intrusted to them for the purpose. The Ecclesiastical Commissioners, on the other hand, would, no doubt, employ a first-rate architect to report, at stated times, on the cathedrals under their charge, and to superintend the work to be done. And if the architect's report were to be submitted, in the first instance, to the dean and chapter, and his account for the work done audited by them, this would secure at once the immediate supervision of the dean and chapter, and the better care which a public body, having a first-rate architect, would be able to take of the fabrics.

966. Do I not understand you that in every case you would make it a voluntary operation on the part of the dean and chapter to place themselves in the position of stipendiaries, and hand over their property to be managed by the Ecclesiastical Commissioners?—I would not compel them, I would leave it to their option.

967. Ought you to bind their successors, supposing the present dean and chapter were of one mind as to that, and wished the transaction to take place, and their successors were of a different mind; would you allow the option for the dean and chapter to resume possession?—No; I do not see how that would be practicable.

968. Would not the effect of this arrangement be that the present members would be exercising the strong power of binding their successors for ever, and prevent them exercising their rights?—Certainly; but it is a power which I supposed to be conferred on them, not a power which they now have according to our present constitution, and that it must be given for a special purpose by Act of Parliament.

969. Do you mean that, supposing you had the power to do so, you would exercise the discretion, either to retain it in your own hand or to convey it over?—Yes, as it seemed best to the dean and chapter for the time being, consulting their own interest and the permanent interest of the body; but that once done, it must, I presume, be done for ever.

970. Do you contemplate the property as it were remaining in fee attached to the chapter, and the management of it only being handed over to the Commissioners, or do you contemplate having no special lien upon that property, but reserving a certain income from the general funds of the Commission?—It would be immaterial, it seems to me, whether the fee were in the dean and chapter or in the Ecclesiastical Commissioners. Practically it would come to the same thing. I know a good deal of apprehension is felt about transferring the fee, but I believe the fee may be rendered as safe if vested in the Ecclesiastical Commission, as in a body such as the dean and chapter. One necessary precaution would be to limit the trusteeship permanently to the bishops and some other members of the Church, whatever changes may be hereafter made in the Commission for other objects. I am supposing that part of the proceeds of the property are to be at the disposal of the Ecclesiastical Commission; and when you have so far interfered with the application of the property, I do not see that you endanger the property more by shifting the fee, with due precautions, from one body of churchmen to another, including the whole bench of bishops.

971. What particular advantage would accrue from transferring the care of the fabrics of all the cathedrals in England from the deans and chapters to a body of people living in London?—I am not suggesting that it should be transferred, I am merely saying that there may be cases in which a dean and chapter would find it desirable to divest themselves of the management of the property, and that in such a case they should be permitted to do so.

972. And

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972. And for ever?—For ever, if it is necessary for the object on account of which the transfer is made. I am not asserting that it is a desirable measure, either generally or in a particular case, but that if the Government interfere so far as to require that the property shall be managed upon new principles, then that it should be left to the deans and chapters to carry out those regulations themselves, or to hand over the property to the Ecclesiastical Commissioners for the purpose. I do not say that it would be desirable; I do not know what the regulations may be, or whether the dean and chapter of any particular cathedral would rather undertake to carry out those regulations themselves, or to hand over the management of their property to another body; all I contend for is, that they should be allowed the option.

973. You do not share in the apprehension, do you, which many entertain and some have expressed, the danger by so parting with the fee to the Ecclesiastical Commissioners?—I do not think there is increased danger. There is some risk, of course, in having our property interfered with at all; but I do not think that risk would be increased by such an arrangement made with due precautions.

974. As I understand the object of this Commission, I do not understand that there is any intention of interfering in one sense with the property. Supposing the Dean and Chapter of Canterbury, for instance, were receiving a larger income than they now receive, could it not easily be estimated what that surplus was, and would not then the duty be to hand over that surplus to a fund?—If I am right, I understand the instructions to this Commission to be, that they are to see in what way the property may be better managed than it is at present.

975. Is not that to get more value from it?—Yes; but that implies some interference in the management, I presume.

976. Do you mean that Parliament would give powers which the deans and chapters do not now possess?—Yes, exactly so; that they would make regulations for the management of the property. All I say, however, is that those regulations may be such as to make it more convenient for us to hand it over to the Ecclesiastical Commissioners.

977. You have expressed an opinion that you have already this power under the 3d & 4th of Victoria, chapter 113., section 68., have you not?—Yes, it appeared to me doubtful; but I understand it has been so decided.

978. This is the language of that part of the section 68. which is applicable: "And also "for any like purpose and by the like authority, any arrangement may from time to "time be made, with the consent in writing under the corporate seal of any bishop or "chapter, for the sale, transfer, or exchange of any lands, tithes, or other hereditaments "belonging to the see of such bishop or to such chapter, or for the purchase of other lands, "tithes, or other hereditaments in lieu thereof, or for substituting in any case any lands, "tithes, or other hereditaments for any money payment." Under that clause, does it not appear to you to be very doubtful whether you have the power supposed?—Those words appeared to me not to give us the authority, but I understand it has been decided that we have it.

979. A subsequent act, 4th & 5th Victoria, chapter 39., section 21., is, "Be it declared "and enacted, that the provisions of the second-recited Act," that is, the 3d & 4th Victoria, chapter 113., "relating to the sale, transfer, or exchange of any lands, tithes, or other "hereditaments, the purchase of other lands, tithes, or other hereditaments in lieu thereof, "or the substitution of any lands, tithes, or other hereditaments for any money payment, "do and shall extend to authorize the substitution of any money payment for any lands, "tithes, or other hereditaments, and do and shall include and apply to all lands, tithes, or "other hereditaments in the possession or enjoyment of any dean, canon, prebendary, or other "dignitary or officer of any cathedral or collegiate church, or in the possession of the Eccle-"siastical Commissioners." Reading those Acts and referring to the purposes, would not either of the clauses you have now heard read, or a slight modification of those clauses, carry out all you wish to see carried out?—I should think so.

980. Do not these clauses contemplate the handing over an equivalent money payment for the land transferred, and not looking to the surplus at all?—I am not aware how that is. I suppose the fabric would be considered as a charge upon the estate, just as farm-buildings would be, or anything else of that description.

981. Under those Acts, although the dean and chapter might hand over their estates to the Ecclesiastical Commissioners, could they do what you have contemplated about repairing the fabrics under them?—In some instances there is a domus fund. If they accepted such an estate as that they would accept it with the incumbrances, and the fabrics would be the incumbrances. May it not also be considered, when there is no domus fund, that the fabrics are incumbrances on the property at large, and that they must be maintained as much as a farm house.

982. Have you consulted your chapter about this matter?—Yes.

983. Do you find them willing to come into the arrangement you have suggested?—There has been no decision about it, but there are some reasons which might make it desirable. The suggestion first occurred to me as a mode of remedying the great inequality of our income through the seven years.

Friday, 20*th April* 1849.

Mr. Joseph Moore examined.

Mr. J. Moore.

20th April 1849.

984. Are you a Solicitor resident at Lincoln?—I am.

985. Did you give evidence before the Committee of the House of Commons upon Church Leases in 1837?—Yes, I did.

986. Have you any fresh evidence to add to that evidence?—I do not recollect at the present moment how far that examination went upon the subject of enfranchisement, upon which I should wish to give some evidence; and in the first place I would state (although it may be thought unnecessary) that the circumstances of the present tenure deprive both lessors and lessees (as it appears to me) of the advantage that another tenure would afford of the improvement of the property, and especially with reference to Lincoln. The present tenure has been found to be very injurious. My opinion is confirmed by what took place at a public meeting which was held at Lincoln in the year 1836. It was a large and influential meeting at which the Mayor presided, and at which the following resolutions were entered into:—"First, That there is in the city, bail, and close of Lincoln a great "extent of property, consisting of lands and houses, held by lease of various Ecclesiastical "Corporations, and that owing to the restrictions imposed by law upon the alienation of "Church property the lessees and tenants of such property cannot secure to themselves the "possession thereof for an adequate period of time, whereby they are prevented from im-"proving the same, or in the event of their improving the same they are either deprived of "the benefit of those improvements, or are required to pay an increased fine, calculated "upon the improved value so effected by them. Second, That the prevalence of property "held by this tenure is and has long been found to be a great bar to the improvement of "the town, and that an enfranchisement of the same on fair and equitable terms would "manifestly tend not only to the benefit of the lessees, but also to the prosperity and welfare "of the town without prejudice or injury to the Church. Third, That a committee of lessees "be formed, with a view to consider what would be the best plan to effect this object, and "that such committee be requested to report thereon to a future meeting of lessees, to be "called at such time as the committee shall think proper, and that the Mayor, Mr. Alderman "Robert Fowler, Mr. Alderman Edward Fowler, Mr. William Norton, Mr. George Brooks, "Mr. Thomas Foster, and Mr. Page Cartledge, be such committee."

987. Was any plan drawn up in consequence of that resolution?—A plan was drawn up by myself, and was circulated, being founded upon the principle of the Irish Act. Enfranchisement seemed to me, and the gentlemen concerned with me, as the only plan that would meet the evil effectually, and afford both parties great facilities for effecting such improvements as the property was capable of.

988. Was that plan drawn up into a shape at the time?—That plan was drawn up into shape soon afterwards.

989. Was this plan drawn up upon a general view as to all Church lands, or was it applicable to building leases and buildings only?—I should say that it was drawn up with reference to property at Lincoln only, that is to say, in the town and the immediate neighbourhood, and that it was only intended to apply to building land and houses in towns, and not to lands in the country.

990. Have you got a copy of the plan that was then proposed?—I have; and I will state what it was:—"The committee formed for the purpose of promoting the enfran-"chisement of Church property having entered into communication with the lessees of "other cathedral towns and places, and having considered various plans of enfranchise-"ment, are of opinion, that an enfranchisement will be best effected on terms similar to those "of the Irish Church Temporalities Act, 3 & 4 Will. IV. cap. 37., and which, though they "may be considered more favourable to the Church than the lessees have been generally "led to expect, the committee feel disposed to recommend as affording an equitable ad-"justment of the question, together with the great advantage of a Parliamentary precedent. "That the lessees may judge for themselves how far such an enfranchisement as is proposed "will affect their interests, and may be beneficial or otherwise, the committee beg to call "their attention to the terms of the Irish Act, which are subjoined, and they will feel "obliged by the intimation of any objections or improvements which may be suggested for "their consideration. The committee find that the proposed plan of enfranchisement "meets with very general approval, and have therefore, in conjunction with other lessees, "directed that a bill should be prepared, on the model of the Irish Act, to be introduced "into Parliament the ensuing session, and from the amount of parliamentary support "which the committee have reason to believe will be afforded, and above all from a con-"viction of the beneficial and equitable nature of the measure itself, the committee enter-"tain the best hopes of success. The Irish Church Temporalities Act, which received the "Royal Assent the 14th of August 1833, provides that any lessee may purchase the fee "simple of his lands, and on his signifying his intention so to do, the Commissioners "appointed by the Act are first to ascertain the annual rent reserved by the lease, and "the amount of the sums paid as fines and fees on the three last renewals. The Com-

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" missioners are then to estimate the yearly average of the fines and fees, and that yearly " average, added to the reserved rents, gives the amount of the future rent to be reserved " and made payable to the lessor, subject to variation with the price of corn every seven " years. The Commissioners are then to ascertain the full improved yearly value of the pro- " perty, according to the usual method theretofore adopted by the lessor, and then esti- " mate the value of the fee simple, subject to the annual rent so to be reserved. From " this sum, representing the value of the fee simple, is to be deducted 4*l.* per cent. in " respect of the tenant's right of renewal. From the value of the fee (less 4*l.* per cent.) the " value of the interest of the lessee in his lease is to be deducted, and the difference is " the amount to be paid for the conveyance of the fee simple, subject to the rent re- " served. The following statement will serve to explain the operation of the Act: Suppose " a lessee of twenty-one years has a property of the annual improved value of 23*l.* 10*s.*, " and that he paid on the last renewal fine and fees amounting to 36*l.*, on the previous " renewal 27*l.* 10*s.*, and on the renewal before that 24*l.*; the aggregate of those payments " being 87*l.* 10*s.*, the yearly average would be 4*l.* 3*s.* 4*d.*; the quit rent reserved by the " existing lease, say 1*l.* 6*s.* 8*d.*, being added to 4*l.* 3*s.* 4*d.*, will give 5*l.* 10*s.* as the rent to " be reserved and made payable out of the property after enfranchisement. The value of " the fee simple in a property producing 18*l.* a year clear,—23*l.* 10*s.* less 5*l.* 10*s.*,—reckoned " at twenty-five years purchase, will be 450*l.*; 4*l.* per cent. off leaves 432*l.* as the value of " the fee, subject to the rent to be reserved. The tenant's interest in the lease being, " say, thirteen years, calculated by the four per cent. tables, is equal to 9·986 years purchase " (say 10 years), would give 180*l.* as the value of the lease, which deducted from 432*l.* " would leave 252*l.* the amount to be paid by the lessee for the purchase of the fee simple, " subject to the reserved rent. By order of the committee, J. Moore."

991. According to that plan, when the transaction was complete, of what reserved rent would the lessor be in possession?—The rent proposed to be reserved to the present lessors would, in the case supposed, be 1*l.* 6*s.* 8*d.* the former reserved rent, and 4*l.* 3*s.* 4*d.* as representing the yearly average of the fines, making together 5*l.* 10*s.*; that is supposed to be equal to what they are receiving now, that is if you take the three last renewals as determining the value, but perhaps it would be better in some cases to take the sum received at the last renewal as most fairly representing the interests of the present lessors in the property. An objection has been frequently urged to this plan that it does not give the present lessors that interest in the property which they ought to have, that it reduces their rent-charge below what they had been in the habit of receiving, inasmuch as having received on the last renewal 36*l.*, for instance, there is no reason why they should not receive that upon the next renewal.

992. Is the result of this plan that you give a reserved rent amounting to about 5*l.* 10*s.*, and at the end of the transaction there would be a certain other sum, which you would divide between the lessor and the lessee?—The lessee would take the value of his lease in the property.

993. What would that be?—Supposing him to have thirteen years in his lease of twenty-one years, it would be nearly ten years purchase; that upon a net rent of 18*l.* a year would be 180*l.*

994. What sum is that to be deducted from?—That is to be deducted from the 432*l.*, the value of the fee, subject to the rent-charge, which would leave the sum of 252*l.* to be paid by the lessee to a public body or to any person to whom it should be desired to be paid.

995. Would the ultimate result of the transaction be that the lessor would have sold the fee for an annuity of 5*l.* 10*s.*, and for a sum of 250*l.*?—Yes; and which latter sum would go to any purpose which Parliament in its wisdom might point out.

996. So far as relates to the conversion of the fine into a rent-charge, is it intended that that should give no advantage to either party?—It would give no advantage to either party. There must be some discretion vested somewhere in determining the amount of the rent-charge, because there might be such special circumstances as showed that the last renewal would be more than what should determine the average; but on the other hand it might be less, and therefore there ought to be a discretion vested somewhere in reference to that subject.

997. So far as that is concerned, according to your plan, is it your wish that the lessor should have as much in the shape of rent-charge *communibus annis* as he would in fines?—Yes, certainly; and I would give him an option, if he chose, of receiving it periodically, as he has been accustomed to do; if he preferred taking it every seven years I would give him that as an equivalent for the rent-charge.

998. By that means do you think that the lessee would be at liberty to make any improvements?—Yes, the lessee would then be at liberty to make improvements.

999. Without liability to any increased fine?—Yes, without being liable to any increase of fine; it would be his own freehold, subject to this rent-charge.

1000. Would you take into consideration the improved value that the property would assume if under a new tenure?—That I have taken into consideration, by the lessee paying a certain sum of money, estimated upon the present value of the property.

1001. In

1001. In taking that estimate do you take into account the possible improvable value; that is, suppose a house and a large garden in a very desirable part of Lincoln, would you value those as mere premises, or would their capability of being built upon be taken into consideration?—It is impossible to determine by any general rule the value of each particular property; there must be, as it appears to me, a discretionary power vested somewhere to take all those local circumstances into consideration.

1002. And to arrange the matter equitably between the parties?—Yes; I ought to say, with reference to this plan, in talking the matter over with lessors, this objection has been made, that it was not fair to take the average of the three last renewals, but more correct, generally speaking, to take the last as representing the value of the lessor, and that the lessor ought either to have as long as he lives or until some alteration is made as much as he has been accustomed to have and as much as he has a right to expect during his lifetime. Then, on the other hand, the lessees object that the four per cent. which is allowed on the right of renewal is not, if this is carried out to the full, a fair remuneration to them for the benefit of the right of renewal.

1003. Do you mean for the expectation of renewal?—Yes; that they ought to have at least ten per cent. for the expectation of renewal; substituting ten per cent. for four; and providing in this scheme that the last renewal fine (unless there are special circumstances) shall determine the amount of the rent-charge to be paid to the present lessor, this plan would be one which I should, upon mature consideration, recommend as fair and equitable.

1004. Who did the original plan emanate from?—It was from the committee, and I have always acted as a sort of honorary secretary for the committee.

1005. Who are the parties besides yourself who have sanctioned this plan?—The committee originally, in the year 1836, consisted of the Mayor of Lincoln, Mr. Alderman Robert Fowler, Mr. Alderman Edward Fowler, Mr. William Norton, Mr. George Brooks, Mr. Thomas Foster, and Mr. Page Cartledge; this was the committee appointed to superintend the interest of the lessees.

1006. Are those the parties who gave their sanction in some degree to that paper?—Yes; the committee has been varied, some of these parties being dead; there is another committee formed; Mr. George Brooks is one, Mr. Turner is another, Mr. William Norton is still one, and two or three other parties; and generally speaking the plan has been approved of.

1007. Has the plan been revised lately, and the alteration you have alluded to suggested?—Yes, those alterations have been suggested.

1008. Was not the plan that you gave us as your original plan taken bodily from the Irish Act?—Yes, the principle of it.

1009. In your original plan there have been no alterations made in it as distinguished from that Act?—No.

1010. Four per cent. is the sum fixed in the Irish Act, is it not?—Yes; four per cent. is the sum fixed in the Irish Act. Every property that is to be subject to enfranchisement must undergo a separate valuation, because you cannot apply any set of tables,—either the four per cent., the three, or the five per cent.,—to every individual property; the value of each must be ascertained by actual survey and by local information.

1011. Does the amount of the per-centage depend as much upon the value of the property as the expectation of renewal?—It will be necessary to consider what is the value of the fee simple, which can only be arrived at by ascertaining in the first instance the annual value. You cannot apply any particular scale to that, because one property in Lincoln may be an old house, for instance, which is not worth more than fifteen years purchase, whereas if it be building land it may be worth thirty-two or thirty-three or even thirty-four years purchase; and all that must be taken into consideration in determining the value of the fee simple of the property; therefore in some cases you must calculate the annual net value by thirty-two, and sometimes by fifteen and eighteen, years purchase, and so on.

1012. But with reference to the per-centage, would the per-centage vary according to the value of the property, or according to the expectation of renewal?—The per-centage would vary; that is, the amount of interest that a man would derive when he enfranchises the property would all depend upon the number of years purchase that should be paid for it.

1013. Is it clear we are speaking of the same four per cent.; you propose, do you not, after the manner of the Irish Act, to deduct four per cent. for the value of renewal?—I propose to substitute ten per cent. for that. I think that would apply in all cases. You would not have ten per cent. to allow in one case and six per cent. in another, but that the ten per cent. should apply to all.

1014. Would not that vary in some degree upon the expectation of renewal which the parties have acted upon, which is a different expectation under different bodies?—I am speaking more particularly, of course, with reference to our leases, which scarcely form an exception to the general rule. I think other lessees have had the same expectations we have had; at least I am not aware it has been otherwise.

1015. Between

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1015. Between leasehold and freehold, in different parts of the country, under different chapters, and in different dioceses, the difference varies very much, does it not?—The different chapters allow renewals upon different terms, consequently lessees get a larger per-centage in the one case for the capital they invest on renewals than they do in others.

1016. The question does not refer to that difference, but is there not a different expectation of renewal in different parts of the country, as evidenced between the smaller and the larger difference between the freehold and the leasehold property?—I am not aware of any difference in that respect; the expectation appears to me to be very much the same. There has of course been a difference in different chapters as to the terms required for renewals; but in all cases, as far as I know, the lessees have always expected and looked for a renewal, and have always when they have sold their property received something for that renewal, as a valuable pecuniary right.

1017. Would not the existence of one or two cases in which property had been run out rather affect the value in the market of property under similar circumstances?—I should look upon those cases as exceptions to the rule, which rather prove the rule than otherwise. We are quite aware, in point of law, that it can be done, but looking at it as a general question, it is not the interest of the lessor to do it, and it could not be the interest of the lessee, so that unless this tenure is changed the lessees have a reasonable ground to suppose that they will be able to have their property upon the same terms that they have been accustomed to have it. It may be considered that the lessees have been in the habit of receiving more than they have been entitled to, and I have heard it urged, that they got seven, eight, and even nine per cent. for their money. If a person goes into the market to buy a reversion, which is a parallel case, he expects to get that rate of interest for his money; looking at it in another point of view, a person takes a lease from a lay landlord, he expects to make more than seven, eight, or nine per cent. for his money, or else the former will not take the lease, therefore the Church as lessors have not been more liberal, as I apprehend, than lay lessors; and it must be remembered that there is this difference between a lay landlord and an ecclesiastical landlord, the lay landlord is called upon to pay for draining and building, and many other expenses connected with the property, which the ecclesiastical landlord is not.

1018. Is the lay landlord called upon to lay out such sums as you have last referred to in the case of a beneficial lease?—Yes, I think so; they are only so far beneficial, that whatever benefit the lessee has he pays for.

1019. Is a lay landlord generally, when he has leases for lives, supposed to perform all the duties of a landlord upon ordinary rack rent?—No, I do not think he is.

1020. The case of rack rent is a different case; must you not compare like with like; that is, a landlord giving a lease of the same nature with the Church giving a lease of the same nature?—Yes, certainly.

1021. Have you calculated what the difference would be of allowing ten per cent. for the right of renewal, or the expectation of renewal, and allowing four per cent.?—It would be very little, but I have not calculated it.

1022. Do you not mean ten per cent. upon the 432*l.*?—Yes, ten per cent. on 432*l.*; and those terms appear to me to be sufficiently hard upon the lessee, and such as many lessees would have great difficulty in meeting.

1023. Should you propose to make this compulsory or optional?—It should be optional.

1024. Do you mean optional on the part of the lessee, but compulsory on the lessor?—Yes; optional on the part of the lessee, but compulsory on the part of the lessor.

1025. Is there any alternative plan you would suggest which would suit the habits and circumstances of the different cases?—You might allow, and I think it would be very desirable to allow, the lessee, inasmuch as he would have a very considerable sum to pay, some indulgence in payment of the money by instalments, by yearly payments; you might commute the gross payment for a payment to be made yearly, and which should be charged upon the property.

1026. Or might it not be a conversion into a rent-charge?—Yes; or you might commute it wholly for a rent-charge, calculated in the same way; and that perhaps would answer the purpose which I suppose the Legislature had in view, because it would be a well-secured income, which might be devoted from time to time, as it was derived from the lessees, to Church purposes.

1027. To what portion of rack rent should you think it safe or right to raise the rent-charge?—That depends upon the nature of the property.

1028. Take the case of land?—Upon arable land you might fairly go to the extent, I should say, of all the interest which the Church has in the property.

1029. Supposing in process of time it came to be half the rack rent, what should you say to that?—I should think you might go as far as two thirds in land.

1030. If I understand the evidence which you gave before the Committee of the House of Commons upon Church Leases, you proposed that the rent-charge once fixed should be permanent, and that there should be no re-valuation of the land?—I think it was intimated that it might be a fixed or a corn rent; I should prefer a corn rent.

1031. What do you state as to a rent-charge of half the value, and that at periods of twenty-one years it should be settled?—Whatever rent is fixed there is no objection to that, as regards the land, none whatever; but as respects houses there would be an objection, unless you could provide, which I do not think it would be desirable to do, against destruction by fire.

1032. Does that proceed upon the supposition that there is a greater power of depreciation in house property than property in land?—Yes, no doubt; and that renders enfranchisement more desirable with respect to houses than with respect to land.

1033. There are some houses included in the general mass that have nothing peculiar about them; there may be districts as to which you are quite sure the instant the power was given they would be built upon, and that valuable houses would be built upon them; would you not in such a case make any allowance for the additional value of that ground as building ground?—It would depend upon circumstances; I should say that that was a matter which I should leave entirely in the valuers to be appointed; they should take into consideration the condition of the property, the capabilities of it, and all those things which affect the value, prospective as well as present; my plan would allow the lessees to avail themselves in part of the improved value which would be given by the change of the tenure, and part of that would fall into the lap, as it were, of the Legislature, and I should think it sufficient to secure to the lessors the value which they have been accustomed to receive.

1034. You seem to contemplate in the first instance the taking the last renewals, as the case may be, as the standard by which the value of redemption is to be estimated, do you not?—Yes.

1035. In what way do you allot, or how do you dispose of the new value created by the new tenure?—I make the tenant pay for it.

1036. According to its full amount?—No, not according to the full amount of the fee simple, because he has a benefit in having his lease estimated by the same table as the fee simple is estimated; and under those circumstances I apprehend he would have the benefit, and the sum paid for the purchase of the fee would give the person who sold the fee a benefit too. Supposing the fee, we will say, of property that was considered to be worth thirty years purchase, you would then estimate the value of the lease subject to this rent-charge by the table, (3*l.* 6*s.* 8*d.* is the table, I think, that would represent thirty years purchase,) and supposing the tenant's lease to be worth ten years purchase, he would have allowed him ten times the annual value as the value of his lease, and the sum to be paid by him would be twenty times the annual value; that would be the difference between the lease and the fee; then twenty times the annual value so ascertained would convey to the party receiving that sum the full benefit that he is entitled to from the supposed prospective increase in the value of the property. As the basis of all these calculations there must be an ascertained value of the fee simple, in the first instance, calculated upon the net annual value.

1037. The present value under the present tenure does not represent the value of the future tenure, does it?—No; if it did there would be no necessity for another valuation; but all these circumstances ought, as it appears to me, to be taken into consideration,—the circumstances I have alluded to, viz., the locality, condition, and capability of each particular property proposed to be enfranchised. I do not see how it is possible to avoid having the property surveyed as if it were going to market.

1038. Then you give the shares, do you not, of this newly-discovered value between the parties in the proportions of their existing interests?—Yes.

1039. Have you ever considered the case of building ground granted out on leases for long terms, ninety or one hundred years?—No.

1040. Have you any such instance at Lincoln?—No, we have no tenure of that kind; no building leases of that description.

1041. Do you know, from your knowledge of other localities, whether building leases of that kind are or are not considered equal to fee simple to build upon?—No, I do not; but there is a great objection to leases of that sort in our part of the world. The Church has endeavoured to prevail upon parties, I believe, to take building leases upon gardens and sites very favourable to building, but parties have always been opposed to it.

1042. On what terms did the Church propose and the lessees object?—I am not prepared to say exactly what the terms proposed were, but I recollect perfectly well that a property very well situated for building was advertised by the dean and chapter for building upon, and I believe that no person could be prevailed upon to build.

1043. Was that in a town?—Yes, it was in Lincoln, in the centre of the town.

1044. You are aware, are you not, that they could not grant more than forty years leases under the existing law?—I think that was so at the time, but I believe there is an alteration now in the power of the Church to grant building leases. I think the case to which I have referred was before that change took place. However, to this day I believe, although there is the increased power given of granting longer leases, no persons at Lincoln have availed themselves of it.

1045. It is not the custom in that part of the world, is it?—No; the people are so much governed by custom, and they have prejudices against it; they do not know how to calculate the difference in value between leases of ninety-nine years and forty years, and unless they can do that to their own satisfaction they refuse to have anything to do with such property.

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1046. Speaking generally of the plan proposed in your paper, may we describe it, as amended or wished to be amended by the lessees of Lincoln, as identical with the Irish plan, only making this difference, that ten per cent. should be allowed for the tenant's expectation of renewal instead of four?—Yes, that is so.

1047. And the other alternative, that the last fine should be taken instead of the average of fines?—Not exactly so; I would give to lessors the opportunity of saying whether they would have the rent calculated upon the three last renewals or upon the last renewal.

1048. With those qualifications your plan is identical with the Irish plan, is it not?—Yes; with those alterations my plan is, as far as I know, identical with the Irish Act.

1049. Your plan is entirely based upon experience, and intended to apply to the cases of land already covered with houses or land intended to be covered with gardens and houses, is not that so?—It would apply to both cases; but I have always directed my attention more particularly to property in Lincoln where there is a much stronger necessity for an enfranchisement than there is in the country. I think with respect to land in the country it would be very desirable, where there are farm buildings and extensive improvements required, that the lessees should have some more certain tenure than they have at present; but generally speaking a lease for twenty-one years or a lease for three lives is sufficient to justify an expenditure in the common and ordinary improvements, such as drainage, artificial manuring, &c.; it will secure to the person who invests his property a return to him during the existence of the lease.

1050. Then on the part of the lessees, or on the part of the public desirous of seeing the property brought to its best advantage, you think the power of emancipation is principally desirable for land either built upon or to be built upon?—It is certainly much more necessary for towns and the immediate suburbs of towns. It is a very great impediment to the improvement of Lincoln; a person will have no difficulty in determining whether a house is freehold or leasehold by its appearance.

1051. Is there anything else you desire to state upon this point?—There are other plans which have been submitted; and it seems to me that, with a view of realizing a sum of money for the purpose, as I understand, of Church extension, no plan should be adopted which the lessee would not be willing to accede to. It does appear to me that one plan in particular which has been submitted by Mr. Ansell is liable to such objections as would prevent the lessee from ever adopting it.

1052. What would be the lessee's objections to Mr. Ansell's plan?—I have drawn up my objections to that plan, and I will read them. My first objection to the plan is this: "The "lessee who becomes the purchaser of a deferred annuity or reversionary interest has no "inducement to lay out his money if he cannot realize a considerably greater interest on "his capital invested than that which the plan allows, viz. three and one third per cent.," which is 3*l.* 6*s.* 8*d.* per cent. We all know that if a man goes into the market to buy a reversionary interest he is not satisfied unless he can get six or seven per cent. for his money, and it is unfair therefore to insist that a purchase of that description of property shall be made at the rate of thirty years purchase.

1053. Does he not get a great advantage as regards his own temporary interest by conjoining it with the reversion he is purchasing?—Yes; but in point of fact you call upon him or ask him to purchase nothing but a simple reversionary interest. He has a lease in the property, which lease may insure to him all he wishes with respect to that property, and you propose to him that he should purchase the reversionary interest; you have no other interest to offer. Then I say, looking at it in a practical point of view, as purchasers would when they go into the market to make the most of their money, it is unreasonable to expect that without some very great corresponding benefit a person would consent to purchase upon those terms when he has been accustomed to buy a property of that description upon very different terms, and may now in the market lay out his money to much greater advantage.

1054. A reversionary interest is an unpopular kind of property in the market, is it not?—Yes, at all times.

1055. Does it not rather sell for less than its merely tabular value?—Yes.

1056. Do you not apprehend that, generally speaking, a lessee is very glad to give more for a reversion than any body else would; that is, for his own reversion?—Generally speaking, a tenant in possession will give more for the reversionary interest of the lessor in that property than any other person, for quietness of possession.

1057. And also for the power of selling the fee as a fee, instead of selling his lease as mere leasehold?—Yes.

1058. For example, supposing the lease a long lease, and the lessee were to purchase the reversion, he would have very little to give for that reversion, would he?—Comparatively little.

1059. But when he sells the whole altogether as a fee he would sell the whole for thirty years purchase, would he not?—It would depend upon the nature of the property.

1060. But supposing the property to be land?—Yes.

1061. He therefore, under those circumstances, would in fact be selling his leasehold interest at a much higher price than he would if he had sold it separately?—Yes.

1062. And that is *pro tanto* an advantage in offering the lessee the power of purchasing the reversion at so low a rate of interest?—Yes; but it is wholly irrespective of the actual value of the property in the market, which ought not to be lost sight of.

1063. Suppose

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1063. Suppose you fail in selling to this person, then you must consider what the public will give you for it?—If no other person will buy but the lessee, we must calculate the value without reference to the will and wishes of the lessee; it must be ascertained in the common ordinary way, by reference to the actual annual value of the property; the then market price which this property would sell for; that is, you have to bring it to market in case the lessee turns his back upon you, and says, "I will not have the reversionary interest "at the price you put upon it." Then what must you do with the property? You must consent to take such a price as people will give for property of that description.

1064. Or you may remain where you are, may you not?—Yes, certainly; or you may remain where you are.

1065. Is not that the alternative which the owner in fee has always in his hands?—Yes; but with a view to benefit the Church it does not appear to me at all desirable that the sum to be realized by the improved management of this property should be any further postponed. I am quite sure, speaking as a churchman myself, it is extremely desirable that something should be made of this property for the purpose of Church extension and education, &c., and that without any delay. Now, if such terms are proposed to the lessees as will prevent their coming into the plan, the good that would otherwise be derived from a measure of this description will be correspondingly postponed, and that is one reason why I think it is extremely desirable and politic on behalf of all parties that a fair and well-considered scheme should be adopted, and I think Mr. Ansell's plan is unfair as respects the lessees. The second objection is: "Besides requiring the lessee to purchase the rever-"sion on such unfavourable terms, the lessee is required not only to relinquish all com-"pensation in respect of his benefit of renewal but he is made to pay ten per cent. beyond "the value so estimated." He not only refuses him any sum in respect of his right of renewal, which, morally speaking, I consider him entitled to, if not legally, but he actually makes him pay ten per cent.; there is a difference of twenty per cent. between that which is a fair and a reasonable plan and the plan of Mr. Ansell. The third objection is: "Nor "is this all, as the purchase money, with the addition of ten per cent., is to be commuted "for a rent-charge on the land, equal to four per cent. on the purchase money, by reason "of such addition." Now, the rent-charge being commuted at four per cent., inasmuch as four per cent. is more perhaps than ought to be charged, I consider that an objection to to the plan. The fourth objection is, "The lessees are called upon to pay twenty-five per "cent. as a compensation for the contemplated increase in the value of the property."

1066. Ten per cent., is it not?—Whether it is twenty-five or ten the principle is the same; I think it is twenty-five per cent.

1067. To pay a per-centage beyond the actual value it has?—Yes; and reading Mr. Ansell's plan, I have come perhaps to a wrong conclusion in stating that to be twenty-five per cent., whereas it ought to be ten; but whether it is twenty-five or ten the objection is in principle the same; the lessees are called upon to pay so much as ten or twenty-five per cent. as a compensation for the contemplated increase in the value of the property. I go on to state, "This calculation does not appear to be made upon any sound basis or any recognized "principle;"—where one person deals with another, and pays in respect of property a sum for the calculated value of that property, the use which is going to be made of the money or of the land is not at all considered in the transaction as entitling either party to a return or compensation the least in the world; the one takes his money, the other the land, and each makes the best use of it that he can; the contract is complete, the nature of the property is changed, and whether one fructifies and the other does not is not at all considered in the transaction between man and man in other cases, and the same ought to be applied to the Church; the property obtained may fructify as much as that property which the lessee purchases,—"and it is not at all probable, all circumstances considered, that the value "of the property would increase in this ratio irrespective of the lessee's skill and capital," which the lessor has no right to avail himself of. Then, fifthly, "It is assumed that the "lessees would readily in most cases accede to these terms, but the circumstances of many "lessees refusing to renew their leases when offered renewals on much more favourable "terms is opposed to such a conclusion." I am quite sure the great majority of lessees would refuse the terms which are offered by Mr. Ansell's plan. Then, "Referring to the "present value of money, and the probable depreciation in the value of the produce of land, "it is not reasonable to suppose that the lessees generally will avail themselves of an oppor-"tunity of purchasing upon terms that will not allow them more than three and one third "per cent.; but whatever the desires and wishes of the lessees may be, they do not properly "form any element in calculations of this description, nor do they offer any justification for "the imposition of terms in themselves unreasonable or unjust." Seventh: "Disregarding the "right which the lessee has to a renewal on the usual terms, and of which it is submitted "he cannot be deprived without inflicting on him a moral wrong, the great advantage "which the lessee's position gives him is lost sight of altogether. The option of selling or "keeping his lease is his. In many instances lessees are indifferent as to what becomes of "the property at the termination of the lease; and it is not perhaps too much to say, that it "will be competent for the lessees who run out their leases to reduce the value of the "property by thirty or forty per cent., without infringing any of their covenants, a course "which it is not unreasonable to suppose many will pursue from a sense of the injury "done them by depriving them of the right of renewal." There is that feeling, I know, among

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among lessees, and among those who are not lessees, if an act of injustice is done to a tenant, that he will injure the landlord as much as he possibly can, and will perhaps injure himself at the same time. I go on to say, "The imposition of terms so unreasonable as to deter the "generality of lessees from accepting them is not only unjust but impolitic, as it will "prevent the application of a large capital to the purpose of Church extension, &c., and will "put a stop to those improvements which the lessee would, under other circumstances, "have carried on at his own sole charge." It will place this property in a sort of abeyance; and the tenure, where it prevails, will be injurious to a much greater extent than it has been before; there will be no building or improving going on. It is very possible to keep the property up, and to prevent the lessee being liable to any action for dilapidations and repairs, and still that property, by mere gradual decay, will become of a very different value from what it is at the present moment.

1068. Is not that power of dilapidation much greater with regard to building property than with regard to land?—Yes, of course I apply this observation entirely to houses; I do not think it applies to land.

1069. At all events not so much?—It may a little, but land is so very soon brought round that it does not apply much to land. When I have been speaking of land I refer to land in Lincoln; such as gardens, for instance.

1070. But the observations you are making on Mr. Ansell's plan are general, are they not?—Yes, certainly.

1071. And applicable to all kind of Church leasehold property?—Yes.

1072. The Irish Temporalities Act first of all directs the rent to be ascertained, and the average of the amount of sums paid in fines and fees on the three last renewals. Are you not aware that, in cases of corporations sole more particularly, the principle on which fines have been taken has been extremely different?—Yes.

1073. They do not measure the value of the property, generally, do they?—No; and I have observed upon that that I would give the lessor an option; I would not bind him by that, and I would give him an option of taking the last renewal as representing the value.

1074. I am speaking with regard to the Church as well; would it be right either that the Church or the lessee should be bound by what I may almost call an arbitrary sum in some respects which has been taken on the last three or four renewals?—In some cases the average of the three last renewals alone would not represent fairly the value of that renewed lease which it would be competent for the lessor to grant, and therefore there must be a discretion vested somewhere to take notice of any special circumstances; just as under the Tithe Act, if you can show the payment that has been made is attended with special circumstances, that is taken out of the ordinary operation of the Act, and the case is met by its own circumstances; and if you can show that the average of three years is more than the present value would entitle the lessor to receive, the lessee should have the benefit of a new valuation.

1075. In fact, is there any mode except an actual valuation by which a uniform system of charging the rent to be reserved could be fairly arrived at?—The amount of the rent-charge might be fixed by the amount of the fine on the last renewal, unless, as I have before stated, owing to special circumstances, that would not represent the value of the property when fairly estimated according to the custom of the place. With a view to determine what number of years purchase should be required for the fee simple, I do not see how it is possible to come to a right conclusion without an actual survey. With respect to houses, or houses with small parcels of land or gardens attached, where the house exceeds the value of the land I think the fee should be valued by the five or six per cent. tables; where the land should be considered of more value than the house, the fee may be valued at twenty-five years purchase, i. e., by the four per cent. table; and in the case of land without buildings the fee should be valued by the three and one third per cent. table; and in order to determine the data upon which these calculations should proceed, I do not see how a survey and valuation can be avoided.

1076. What should you think of any plan by which a right of renewal should be given instead of the right of enfranchisement and security for renewal on certain terms?—I think by adopting that plan you lose the benefit which the Church might otherwise derive from enfranchisements; successive renewals are all attended with successive expenses that, as it appears to me, would be thrown away; neither the lessor nor the lessee would have any benefit from those payments; on the other hand, it seems so very desirable to get rid of the evils of periodical payments, seeing that they occasion bickerings between lessor and lessee, that I think enfranchisement is very desirable. Although I am perfectly aware that the Church, when they come to renew a lease, do not in some instances get what they are entitled to, the lessees invariably consider that the Church gets more than it ought to have, and that sort of bickering seems to render the Church in some measure unpopular, and in places where this property prevails there is an idea that they are thrusting their sickle into other men's corn, and it is exceedingly annoying to a lessee to find after he has been a good tenant, and laid out his money very freely in improving the property, the only return made to him by the Church is by increasing the amount of the fine upon the next renewal. That in former times was always avoided; and it was the custom in our Chapter to consider that, and not to take any increased fine upon the renewal succeeding the improvement; but that custom, I believe, has been abandoned, and the property is now valued with reference to the existing value at the time.

1077. Are

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1077. Are you in thus speaking, speaking of Lincoln or of chapters in general?—Of Lincoln only.

1078. By the course you have just stated it would be about fourteen years, instead of seven years, that they would bring the improvements into account?—Yes; just so with respect to twenty-one years leases, and with respect to forty years leases, at the end of twenty-eight years.

1079. Would not much of the objection that you entertain to a perpetual right of renewal be obviated by prolonging the term, and having the valuations much seldomer?—Yes, it would; but particularly with respect to property in towns it is most desirable that the property should be freehold.

1080. What are the expenses to which you are chiefly referring at renewals, are they expenses of surveys or legal expenses?—The surveys of course add very little to the expense, compared with the expenses of the lease, and of the map attached to the lease.

1081. With regard to the stamps, by a legislative arrangement those might be diminished, might they not?—They might be diminished; but then if the lessee pays the full value of the renewal he ought not to pay anything at all for the lease. Now the customis to make the lessee pay all the expenses, and that is not often taken into consideration.

1082. Do you consider your plan to have received the sanction of other parties besides those connected with Lincoln?—No; I do not consider myself at liberty to say that it has received the sanction of any other parties; but I am authorized to say that the lessees at Lincoln would gladly make that sort of sacrifice which the plan seems to require of them, in order to gain an enfranchisement of the property; and with reference to the observation that the objection to these renewals applies more with respect to property in towns than it does to property out of towns, I should wish my answers to be taken as referring more particularly to property in towns.

1083. Do you mean that you wish your general evidence to be taken more with reference to houses in towns than other property?—Yes; and building land capable of improvement; and there is a strong necessity, as it appears to me, for it.

Mr. William Nanson examined.

Mr. W. Nanson.

1084. Are you a solicitor resident at Carlisle?—I have been until lately.

1085. Will you state what connexion you have with this question of Church leases in any way?—I have been engaged as a solicitor; nothing more.

1086. Have you had dealings with property of this nature?—Yes; and possess some of it myself; for the last forty years I have had occasion more or less to deal with it occasionally in the way of practice.

1087. Will you state what you are particularly desirous of laying before the Commissioners?—I thought it better first to give a statement of the property held by lease under the Dean and Chapter of Carlisle; that will give a view of the amount of property of this description to which my evidence principally refers.

1088. From what source have you got that?—From the dean and chapter's return to the Church Leases Committee.

1089. Does that give it in the general, or property by property?—It gives it property by property; and I have calculated the gross amounts of the different sorts of property held by leases under the Dean and Chapter of Carlisle; the average annual income which the lessors and the lessees respectively derive from it, according to the custom of renewal and the system of management that has been observed; with the value in perpetuity of the income which the lessors and lessees thus receive.

1090. The custom has varied there lately, has it not?—Yes; there has been an increase of a quarter of a year's value upon the fines for renewal of the tithe rent-charges.

1091. Was that before or since this paper was drawn out?—This paper is drawn out upon the return, and I have not noticed this change because it has not got settled. There are a good many renewals standing over.

1092. Is that increase of recent date?—Yes, quite recent. About two years ago it was proposed, on the ground of the rate of interest being very low at the time; but there has been no change since the interest of money has risen. I believe they are the increased terms which are charged now.

1093. What are the terms now?—Houses in Carlisle and Penrith are leased for forty years, and renewable every fourteen years on three quarters of a year's value. There has never been any variation, as far as I know. Lands and tithes are leased for twenty-one years, and renewable every seven years upon a fine of a year and a half's value; but within the last two years the dean and chapter advanced the fine from a year and a half to a year and three quarters upon tithe rent-charges.

1094. Was that advance for rent-charges only?—It was.

1095. Had there been any variation in the rate of renewal previously, in your recollection?—No, that isthe first variation I ever heard of.

1096. Is this abstract you now produce founded on a public document?—Yes; it is founded upon the return of the Dean and Chapter of Carlisle to the Committee of the House of Commons upon Church leases.

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1097. Will you state it?—Yes.

HOUSES held by leases for forty years renewable every fourteen years upon payment of a fine of three quarters of a year's value.

	£	s.	d.
Annual value, as per dean and chapter's return, in 65 different holdings -	2,335	11	4
Deduct rents reserved by leases - - - -	33	19	6
Net value upon which the fines on renewal are assessed - - -	2,301	11	10
Renewal fines payable every fourteen years; viz., three fourths of 2,301*l.* 11*s.* 10*d.* - - - - - - -	1,726	3	10
Average annual value of fines; viz., one fourteenth of 1,726*l.* 3*s.* 10*d.* -	123	5	11
Reserved rents - - - - - - -	33	19	6
Amount of average annual income of dean and chapter from fines and rents	157	5	5
Net annual value of houses, as above - - - - -	2,301	11	10
Deduct average annual amounts of renewal fines - -	123	5	11
Net annual average income received by lessees - - -	2,178	5	11
Value of the fee simple of houses, at twenty years purchase; viz., 2,335*l.* 11*s.* 4*d.* × 20 = - - - - - -	46,711	6	8
Value in perpetuity of income received by dean and chapter; viz., 157*l.* 5*s.* 5*d.* × 20 = - - - £3,145 8 4			
Value in perpetuity of income received by lessees; viz., 2,178*l.* 5*s.* 11*d.* × 20 = - - - - 43,565 18 4			
	46,711	6	8

It appears, therefore, that under the present system of leasing the dean and chapter only receive about one fifteenth of the annual value of the property, and that the lessees receive nearly fourteen fifteenths.

LANDS AND TITHES held by lease for twenty-one years, renewable every seven years upon payment of a fine of one and a half years value:

	£	s.	d.
Annual value, as per dean and chapter's return, in 210 different holdings	17,347	16	9
Deduct rents reserved by leases - - £613 10 6			
Augmentations charged on lessees - - 229 13 0			
	843	3	6
Net value upon which the renewal fines are assessed - - -	16,504	13	3
Renewal fines payable every 7 years; viz., one year's value £16,504 13 3			
half year's value 8,252 6 7			
	24,756	19	10
Average annual income of dean and chapter from fines; viz., one seventh of 24,756*l.* 19*s.* 10*d.* - - - - - -	3,536	14	3
Reserved rents - - - - - - -	613	10	6
Amount of average annual income of dean and chapter from fines and rents	4,150	4	9
Net annual value of lands, &c., as above - - - -	16,504	13	3
Deduct average annual amount of fines - - -	3,536	14	3
Net average annual income received by lessees - - -	12,967	19	0
Value of the fee simple of lands and tithes, at an average of twenty-five years purchase, subject to augmentations; viz.,			
Gross annual value - - £17,347 16 9			
Augmentations - - - 229 13 0			
17,118 3 9 × 25 =	427,954	13	9
Value in perpetuity of income received by dean and chapter; viz., 4,150*l.* 4*s.* 9*d.* × 25 = - - £103,755 18 9			
Value in perpetuity of income received by lessees; viz., 12,967*l.* 19*s.* × 25 = - - - - 324,198 15 0			
	427,954	13	9

It appears, therefore, that under the present system of leasing the dean and chapter receive somewhat less than one fourth of the annual value of the property, and that the lessees receive rather more than three fourths.

1098. Why

1098. Why do you take the fee simple at twenty-five years purchase?—Just as an approximate calculation. It is merely to show the proportions, and not as putting the value upon it at all. It would make no difference in the proportion whatever value was put upon it. I have put it as calculated at that, not as the estimate of its value.

1099. I suppose you would take thirty years purchase as the selling value of land, would you not?—Between twenty-five and thirty; it sometimes exceeds thirty.

1100. Does it go up to thirty-three sometimes?—Yes.

1101. What statement do you wish to make based upon this?—I wish to state, from the mode in which the property has been managed, it has led to an invariable way of dealing with the property on sales and mortgages, of calculating the value by the income the lessees derive from it, not by the number of years of their leases; and I have a list of several sales which have taken place (as many as I could find) of property, and some very recently, and some purchased by myself. The first I have on the list is in 1830:—Land in Carlton; the unexpired term was eighteen years; the rent 30*l.*; and it was sold for 600*l.*

1102. What sort of land was that; common arable land?—Arable land.

1103. Was it near a town?—No; and it was of inferior quality. It was four miles off. In 1832 I have the sale of a house in Carlisle, thirty-five years unexpired, rent 40*l.* The price I paid for it was 800*l.* That was a forty years lease renewable on three quarters of a year's value. I have another case in 1833; a house in Abbey Street, Carlisle, exactly the same price, thirty-five years unexpired, 40*l.* rent, 800*l.* purchase. Both those were sold by private contract. In 1843 there was a case of a house in a back lane called the Spread Eagle Lane, Carlisle, occupied as a public house, and very old; but a small portion of it freehold; in the same house a part was freehold and part leasehold. The term of the leasehold part was thirty-five years unexpired, rent 45*l.*, and the price by auction 800*l.*

1104. Can you give any idea of what the price of a house of that quality would have been if freehold?—It would not be much more, because the custom is so very easy. I have instances of two of the best houses in Carlisle built on that tenure. One was a very fair house taken down by a gentleman and rebuilt, and the other a lady built on the site of a stable; those are two of the best houses in Carlisle built upon this tenure.

1105. If you had to sell two houses, one a freehold worth 40*l.* a year and another a leasehold worth 40*l.* a year, there would be some difference in the price obtained, would there not?—There would be some difference, but I do not think the tenure would so much be taken into calculation as the situation.

1106. All those things abstracted; two houses of equal quality, equal situation, equally desirable, the one freehold title, the other renewable on lease, there would be some difference, would there not, in the price?—Yes; it might be two or three years purchase. I do not think it would be more than that in Carlisle.

1107. Were these houses of which you have spoken as to the sales in a good situation?—Not remarkable; the two first, Castle Street and Abbey Street, were not in good situations for trade, but very fair average situations; the Spread Eagle Lane was a very inferior situation, and a very inferior property altogether, but it suited the parties who bought it. It was sold by auction, and other parties were ready to have taken it at the same price. I considered that it was dear.

1108. That kind of property is a favourite investment, is it not, to persons who have accumulated a little money, considering they derive an appearance of importance from such possession?—We do not find that in Carlisle; they do not get a good return for their money in buying houses there.

1109. Are the annual values you have put reasonable rents?—Yes; they were the rents at which they were let.

1110. And they were not supposed to be too low?—Not by any means.

1111. These are not selected cases, are they?—No; they are all I could collect to give information upon. I have not excepted any I could find. In 1847 I sold an estate in the parish of St. Mary, Carlisle, between two and three miles from Carlisle, on the west of it. There was a portion of it freehold and the remainder leasehold,—it is very often the case with these leasehold properties that they are intermingled with freeholds,—the term of the leasehold part fifteen years, and the rent 31*l.*, and it sold by auction for 795*l.*

1112. Was this land?—A farm.

1113. Held for twenty-one years lease, fifteen years unexpired?—Yes; with proper farm buildings upon it.

1114. And renewable every seven years?—Yes. In 1848, last November, there were two houses in Castle Street, Carlisle, of which the unexpired term was thirty-seven years, the rent 65*l.*, the price was 1,200*l.* They were rather inferior in situation to the two first houses I mentioned, but more recently built.

1115. Was that supposed to be the full rent?—Yes; that was a very full rent. In the same year a public house in Black Swan Lane, quite a back situation and a very old property, twenty-seven years unexpired, the rent from being a public house was a high rent, 60*l.*, the price by auction was 900*l.*; had that been occupied as a private house it would not have let for more than 30*l.*, I think.

1116. There

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1116. There was the expectation of the renewal?—Yes; it has not yet been entirely shaken. The next is a remarkable case, and I should not have bought the property at the price; a field in the parish of St. Mary, Carlisle, about a mile from Carlisle, twelve years unexpired, 18*l.* was the rent, between five and six acres of land, and it sold by auction for 325*l.*

1117. As far as we can judge from these instances, the Church lessees at Carlisle have no reason to complain of their tenure, have they?—No, I do not think they have, if they had only a certain tenure.

1118. The question is, what they would give for that, is it not?—Yes, just so; but the tenure does affect property, as I will show you in other instances; we have one side of a street in Carlisle which has has stood as long as I recollect in an unimproved state; it is in a very old, ruinous, unprofitable condition.

1119. Is that held under the same tenure?—Yes.

1120. How do you explain the difference of the operation of the same tenure upon different properties in the same place?—The one side of the street (Devonshire Street) which I have referred to cannot be improved but on a speculation. Cases in which good houses have been built have been built by an individual for his private convenience, whereas this must be set out as building ground, and regularly allotted and built upon.

1121. In the one case a man incurs some risk when his own convenience is concerned, but in the case where he has to look upon the whole thing as a mercantile speculation there is an amount of uncertainty which interferes with the improvement?—Yes, that is so.

1122. Have you any more of the cases you can refer to?—There is one more case, which I put separately from the others, because it was of tithes which sell the worst; they are very unsaleable articles; I have offered to sell them, and could not get an offer.

1123. For what reason?—I think it is because people do not understand about collecting them, and the trouble of it; there is a trouble annually of calculating the rent-charges from the price of corn.

1124. Could they not get them from their neighbours?—No; I know a tithing which I am concerned for, which has, I should think, nearly 100 persons to collect from, in small sums of 5*s.*, 10*s.*, 20.; all that is to be calculated previously to collection, and it is no little labour. This sale of tithes to which I alluded was in 1835. Tithes in Brackenbrough tithing, seventeen years unexpired, rent about 21*l.*, it was before the commutation, and the price 290*l.*

1125. Was 21*l.* the annual value of the tithe?—Yes. There are many small tithings in Cumberland. I have mentioned how many holdings there are under each description of property in the paper I have handed in. An instance occurred in 1819 or 1820, upon the construction of the Carlisle Canal, of the manner in which the custom of renewal was then regarded both by the dean and chapter and their lessees. The canal company having purchased land of a lessee of the Dean and Chapter of Carlisle, held under a lease of twenty-one years, at the rate of 157*l.* 10*s.* per acre for the fee simple of about two acres, the apportionment of the price was left by mutual agreement of the lessors and lessee to the calculation of a London actuary, according to the custom of renewal, and the amount awarded to the dean and chapter was 38*l.* per acre and 119*l.* 10*s.* per acre to the lessee, upon which terms the transaction was settled. Upon recent occasions under railway acts the dean and chapter have refused to allow more than the lessee's term.

1126. As to the cases you have mentioned of the purchase of houses, were they mostly purchases for the purpose of occupation by the purchaser?—The cases of the better class of houses I have mentioned were for occupation; I bought for occupation by my mother; but the Black Swan public house I should think was an investment.

1127. There 900*l.* was given for 60*l.* a year rent, was it not?—Yes; but that rent was an extraordinary rent, it being a public house. I have a case of a sale in 1847 of an estate partly copyhold, paying an arbitrary fine on alienation, descent, and on the death of the ford, with a portion of common land which is freehold; the rent of that was 70*l.*, and it sold by auction for 1,800*l.* There is not a great deal of difference between such copyhold land, although that is an estate of inheritance, and leasehold lands, which are subject to a year and a half fine and renewed every seven years.

1128. A copyhold estate subject to an arbitrary fine on death and alienation was worth, you say, about 70*l.* a year; what would that have been at twenty years purchase?—1,400*l.*, and it sold for 1,800*l.* by auction.

1129. What does the fee simple land sell at in that neighbourhood?—I should think thirty years purchase was the average.

1130. Is it not sometimes higher than that?—Sometimes higher and sometimes lower. People generally talk about buying to pay four per cent., but they seldom get it; that is what they aim at, and make a boast of when they think they have got it.

1131. Was there anything about this copyhold estate, should you say, that made it sell at such a price?—No; there was nothing to recommend it; it sold at about twenty-five or twenty-six years purchase.

1132. Should you not take six years off for the arbitrary fine?—I am not aware how that is; it was a scattered property and by no means a desirable purchase.

1133. Was

1133. Was that made for occupation or investment?—It was bought by a farmer, I think for investment. I am not aware that he wanted to occupy it; he might, but there was no advantage in the situation.

1134. Do not small estates always fetch much more in proportion than large ones?—Yes; the leasehold tenures are generally advertised, explaining the nature of the tenure as distinguished from an ordinary lease.

1135. Are they looked upon as copyholds?—Yes, very much in that way.

1136. Are they carried into settlement much?—Yes.

1137. In what way are the renewals provided for in settlements?—There is a power to the trustees to raise money to pay the fines to renew them. I have memoranda of cases here, in which they are in settlement at present, both by will and marriage settlements.

1138. Does that apply to all kinds of Church leasehold, whether tithe rents or land?—Yes, all kinds; I have instances of tithe rents, both land and tithes, in a will, and lands in two other settlements.

1139. In the case of a will is there any provision for the renewal?—Yes, just the same.

1140. Is a certain sum set apart for the renewal?—Yes; in one case we set apart a sum annually to pay for the renewal when it becomes due, and deduct it from the life tenant.

1141. Are these cases of property mingled with freehold, or simply leasehold properties?—Both ways; detached portions of leasehold, forming part of the property, and in other cases mixed with freeholds.

1142. In the case of lives is there not always an insurance required?—We have so little of leases for lives in Cumberland that I have had very little to do with them. The bishop has some; he has leases both for lives and years, but they have never much come under my notice.

1143. Are you then speaking of chapter land principally?—Yes; dean and chapter land.

1144. And leases for terms of years?—Yes; all the property referred to in the paper which I have handed in is held under leases for years. Although the sales show the moral certainty which parties possess about renewal, yet the state of the leasehold property in the town shows the tenure has an effect upon that description of property. I have mentioned Devonshire Street, Carlisle, and the state of it; and if you see an old inferior house, plastered and whitewashed, you may be almost sure it is a leasehold house.

1145. Does this tenure obstruct new buildings in the neighbourhood of Carlisle?—Yes, but the forty years leases do not extend out of Carlisle.

1146. So that in Carlisle you see more of its effect as obstructing improvements than in preventing new buildings?—Yes.

1147. Does not the dean and chapter's property extend round Carlisle?—Yes, but they are limited to the town for forty years leases.

1148. But taking the tenure generally, whether forty or twenty-one years, is there Church property immediately around Carlisle that is not yet built upon?—Yes, there is some, but it is not built upon; nobody will build where it is only a twenty-one years lease.

1149. Is there land round Carlisle that would be built upon but for that tenure?—Yes, certainly, there is such land, surrounded by buildings, that is standing unoccupied, and to very great detriment, because it is not good for much as grazing land or anything else; it is trespassed upon, smoked, and spoilt.

1150. Would there be a very considerable increased value given to it by an alteration in the tenure?—No doubt there would, but it is not to any very great extent in the immediate neighbourhood of Carlisle, the dean and chapter's leasehold land is scattered over an immense tract of country, in small plots.

1151. Is it therefore, upon the part of the dean and chapter, expensive to look after?—Yes; it must be more expensive, on account of the very long journeys their surveyor must take in many cases before renewals.

1152. The expense of the surveys of small plots are very heavy, are they not?—Yes; the expense must be considerable.

1153. Is the expense on those small plots very considerable for stamps and other legal expenses?—Yes; that adds very much to the expense of renewal of small holdings.

1154. Does not that fall extremely hard upon small holdings?—Yes, it does; very much so.

1155. Is that much more than upon large ones?—Yes; a person with a large estate does not mind much about the expense of the lease, it is but a small sum in addition; but to a small property the expense of the lease is sometimes as much as the fine, or more.

1156. With regard to tithe rent-charges, do you know of any instance where parties have declined to renew?—Yes, there are such instances.

1157. Does that occur frequently?—Not frequently; there are several instances now in which lessees have declined to renew on the year and three quarters fine, which are standing unsettled; but I should state that the expense of renewing is not taken into calculation in the fine.

1158. Does it not make the fine less, as the tenant cannot afford in consequence of that to pay so much for the fine?—I am not aware that the fine is ever reduced on that account.

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1159. He cannot afford, can he, to pay so much to the dean and chapter, if he pays so much in other ways?—That is so. Another effect of the leasehold tenure, of which there are instances in Carlisle, is that where a person has a freehold house and a leasehold house adjoining, the leasehold house is built a story less in height than the freehold.

1160. Nevertheless, you have other instances of great trust placed in these tenures, have you not?—Yes; it is not from want of trust in the tenure this arises, but from dislike to have the fine increased. The effect of the tenure upon land in the country is, that parties will put their buildings on their own freehold, and leave the leasehold without any buildings whatever, and that they will plant nothing on it even for shelter, because the timber belongs to the lessor.

1161. Have you any plan to suggest as a means of getting rid of this state of things?—Yes, I have. I do not know whether it is necessary to state any opinion of what would be the effect of running out the leases.

1062. State the effect, in your opinion?—It would of course cause a very great derangement of property which is settled by wills or settlements. The persons who have the life interest would swallow up the whole corpus, and so in regard to the division of property among a family, one child might have had the misfortune to have a leasehold estate left who would lose it, and the other part of the family have their portions entire; those are awkward cases that would arise from running out of the leases.

1163. How would the Court of Chancery deal with money set apart for the purpose of providing a fine?—I think it has been decided that if a trustee gets the renewal of a lease, and attempts to appropriate it, that the Court of Chancery will interfere, to make him hold it in trust. I think another effect of running out the leases would be that the dilapidations would be likely to reduce the value of the property very much. I know of two estates where dilapidations have taken place to a great extent; one was by the tenant for life, and it cost the reversioner an enormous sum before he got it into anything like order.

1164. Was that the case of a farm?—It was the case of different estates of land, but not leasehold. There is another case I am acquainted with of a lady who had a considerable property, and during her minority the rent was so much an object to her friends that they neglected all repairs, and it cost a very large sum to put the farm buildings into a tenantable state.

1165. There is a remedy, is there not, against the tenant for dilapidations?—I do not know that the lessor has any remedy.

1166. Is there no covenant to repair houses?—I think not; but in the North, in the case of running out leases there is another effect which would take place; people who had drained with tiles, if they were going to leave their land, nobody could prevent them taking up those tiles and putting them into their freehold land.

1167. Are they not fixed to the freehold?—They are only loosely laid in. Buildings erected for trade you can move before the end of the lease. I have known instances in which draining-tiles have been taken up to put down again. A leaseholder, if he drained his leasehold land, would in some cases take them up and put them into the freehold, I have no doubt of it. I think any evidence about building leases would hardly apply to Carlisle, as we have scarcely any vacant ground of leasehold tenure. But the plan of granting building leases does not answer in the North. At Manchester, although land is so valuable, it is, I believe, generally sold in fee, subject to a ground rent. In Carlisle the Duke of Devonshire leases land, but he leases it for 200 years, and might therefore almost as well grant a fee. The Earl of Lonsdale and the Corporation of Carlisle both grant the fee, and do not attempt building leases.

1168. Reserving a chief rent?—They either sell it out and out or reserve a chief rent. There is some leasehold land under the dean and chapter that might be applied to that purpose, a little about the outskirts of Carlisle; it is not of any great extent. With respect to leasehold property, generally, it is of course much more objectionable than an estate of inheritance, as there are peculiar expenses attached to it which do not attach to an estate of inheritance.

1169. Do you refer to probate duty?—Yes; and various expenses besides. A variety of tenure in the same property is also a great disadvantage. If you have leasehold, freehold, and customary or copyhold in one property, each description of tenure may descend in a different way, although the boundaries of each may not be known. In the case of the Bishop of Carlisle, not many years ago, I was sole arbitrator to make a division between the freehold and the leasehold lands of one of the bishop's leaseholders. The boundaries were perfectly gone, and it was guess-work more than anything else to set out any portion for each tenure.

1170. Did you set out the quantities found in the terriers?—Yes; from the old leases.

1171. And you established an arbitrary boundary did you?—Yes, and made an award, with a plan to define it afterwards.

1172. Will you state any plan of enfranchisement that you propose?—The plan I propose is as follows: "The present reserved rent and the yearly average of the fines paid for the last "three renewals to be converted into a rent-charge in lieu of the income hitherto derived by "the lessors from the property in lease; the value of the fee simple, subject to the above-"mentioned rent-charge, to be estimated by a commissioner, and also the proportionate value

" of

" of the entire term granted by the lease, according to the same table of calculation ; one half " of the difference between the two values to be allowed to the lessee for his benefit of renewal, " landlord's outgoings, expenses of management, and risk of loss by tenants; the remaining " half to be considered as the purchase of the fee, and either converted into a rent-charge " at four per cent. per annum, or paid in money; the lessee in addition to pay to the lessors " the amount of the rent-charge in lieu of fines for so many years as have elapsed since the " last renewal; for example,—estate held on lease for twenty-one years, renewable every " seven years on payment of a fine of one and a half year's value, gross annual value 100*l.*, " reserved rent 5*l.*, fine one and a half year on 95*l.*, making 142*l.* 10*s.*, one seventh part " 20*l.* 7*s.*"

1173. What is the seventh part of 142*l.* 10*s.*, mentioned in your plan ?—It is the average annual income derived from fines. " Rent-charge in lieu of rent and fines 25*l.* 7*s.*, net " annual value remaining 74*l.* 13*s.*; supposed estimated value, at twenty-five years purchase, " 1,866*l.* 5*s.*, ditto of twenty-one years lease at fourteen years purchase, 1,045*l.* 2*s.*"

1174. Why do you estimate the lease at fourteen years purchase ?—That I think is the actuaries value at four per cent on twenty-one years leases.

1175. That is supposing the twenty-one years lease full ?—Yes, calculated full, and equalized by paying up for the years elapsed since last renewal. " The difference is 821*l.* 3*s.*; " allowance of one half to lessee, 410*l.* 11*s.* 6*d.*, purchase of fee subject to rent-charge of " 25*l.* 7*s.*, 410*l.* 11*s.* 6*d.*, or if the purchase money is converted into a rent-charge 16*l.* 8*s.* 6*d.* " per annum, which added to 25*l.* 7*s.* would make the entire rent-charge 41*l.* 15*s.* 6*d.*; if the " lease had only eighteen years to run, the lessee to pay to the lessors the amount of three " years annual value of the fines, amounting to 61*l.* 1*s.*, for the time elapsed since the last " renewal of the lease. By the preceding terms the present average annual income of the " lessors will be provided for in perpetuity, and seven thirty-second parts, or nearly one " fourth of the portion hitherto enjoyed by the lessee, will be applicable to the ecclesiastical " fund."

1176. According to this plan, and the practice at Carlisle, which is rather less favourable to the Church than others, the Church would have two thirds as much again as it now has. They now get 25*l.* 7*s.*; taking the interest at four per cent., that is 42*l.* instead of 25*l.* on the fourteen years lease, it would get nearly half ?—The average unexpired term in the leases is midway between fourteen and twenty-one, viz. seventeen and a half. " The same " principle may by proper calculations be applied to leases of forty years, or for lives. In " order to ensure the punctual payment of the rent-charge, without cost of collection to " the Church, it may be provided that in default of payment within a month, or other " limited period, to the receiver appointed for the purpose, the rent-charge shall for every " such default be increased a quarter, or twenty-five per cent. This would make the pay- " ment of the rent-charge more certain and regular than that of the present fines on re- " newals. Another mode of dealing with the difference, as above calculated, between the " value of the fee and the value of the lease may be worth consideration. The entire fee " may be considered as divided into three portions; first, the value of the income at present " received by the lessors, calculated in the preceding example at 25*l.* 7*s.* per annum; " secondly, the value of the existing leases, calculated at 1,045*l.* 2*s.*; and thirdly, the value " of the remaining portion of the entire fee, which portion, calculated at 821*l.* 3*s.*, has by the " custom of the Church leasehold tenure been enjoyed by the lessees, the legal title being " vested in the Church. If the object of the present Commission is, as I apprehend, to " ascertain how the leasehold property can be made more available for the general benefit " of the Church, that benefit must arise chiefly, if not entirely, from this portion of the " income. In the preceding scheme this portion is divided equally between the lessees and " the Church ; instead of this, the gradual resumption of the whole to the Church may be " provided for by making an addition triennially during a period of twenty-one years of " one seventh of the annual value of this portion to the original rent-charge. Applying " this mode to the preceding example, the sum of 821*l.* 3*s.* converted into a rent-charge " would amount to 32*l.* 17*s.*, or for the sake of easy calculation, to 32*l.* 18*s.*, one seventh of " which would be 4*l.* 18*s.*, to be triennially added in perpetuity to the original rent-charge " of 25*l.* 7*s.* during the period of twenty-one years. Upon the whole the latter mode of " dealing with this surplus of 821*l.* 3*s.* is I think preferable both for the lessees and the " Church. To the former it is not attended with a sudden reduction of income, which " would in most cases be attended with serious inconvenience, and in some cases of mort- " gaged leaseholds with absolute destitution, and to the Church it secures the gradual " resumption of its entire reversionary interest." That idea struck me only within the last twenty-four hours; I thought it was worth putting down as a means of attaining a gradual resumption of the property; it would only then be a question of time to the Church, and if it is for the sake of raising a fund for new purposes it would be perhaps an advantage that the additional income should come in gradually.

1177. Is not the plan you propose a conversion of the Church's interest into a rent-charge ?—Yes; and with the security for the rent-charge that it should be the voluntary act of the payer to go and get rid of his money in the same manner as the lessee does upon renewal of his lease, because the effect otherwise would be, the landlord would throw the payment of the rent-charge on the tenant, and tenants are often the worst payers in the world. The ecclesiastical bodies would have a deal of trouble to obtain payment, particularly in such a country as Cumberland, where the estates lie very wide.

1178. Does

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1178. Does that apply to house property?—The plan proposed will apply to both houses and land. In house property the reversion is so small in value that it is not of much moment; it is the twenty-one years lease where the profit is to be got from.

1179. Is the greater part of the property, the bishop's and the dean and chapter's, in houses in Carlisle?—By no means; there is a very small proportion of houses, as you will see by the paper I have given in. I am not aware that the bishop has any houses, except in Penrith.

1180. Should you apprehend that there would be a feeling, when once these fines were converted into rent-charges, of uneasiness under the burden of a rent-charge?—No, I should not have the least apprehension of anything of the sort.

1181. Do you mean provided they did not get too near to the rack rent?—Yes.

1182. How near should you think it safe and wise to bring it ultimately?—It should I think not much exceed half the gross value.

1183. Would you have a different proportion in reference to land and houses?—No; the rent-charge on houses must be smaller, from the small value of the reversion. I think it is a matter of very little moment, either to the Church or lessees, whether the consideration for the purchase of houses is a rent-charge or a money payment, and there is a mode of investment which is very desirable to the Church, and very advantageous, namely, the purchase of tithe rent-charges, which may be got exceedingly cheap.

1184. Is not that confined to the northern parts?—I am only speaking of the districts from whence I come. I have advertised them without getting an offer.

1185. Does not that arise partly out of what you have previously mentioned, the small portions into which the property is divided?—It may in some respects. I understand that Lord Ashburton, a few years ago, was buying up tithe rent-charges at twenty-five years purchase; we can get no such prices for them in the North, certainly.

1186. Are not tithe rent-charges put into family settlements and wills, like other Church interests?—Yes, the same as other leasehold property.

1187. Would the sort of rent-charge you have mentioned in Cumberland as being divided into very small sums be a convenient property for the Church?—The case I have described was a peculiar one, because it was a modus of meal, and not tithe in kind, which had been converted into a rent-charge; the tithes in kind are not so very small, but I have found them in some cases very troublesome to collect for the claimant; they are payable in the country, and the occupiers are dilatory in paying; but if part of this rent-charge went to endow a clergyman in his own parish, or a neighbouring parish, he would not have much difficulty in getting it.

1188. Have you anything further that you wish to suggest?—There is one thing which ought to be considered, that an estate burdened with a heavy rent-charge of one half its value is not equally valuable with a clear estate of half the gross rental.

1189. Would it be more valuable than a Church leasehold?—Yes, certainly.

1190. Would there not be the territorial importance of a considerable surface purchased at a less outlay?—Yes; but then, for instance, a landlord, if he employs an agent, he has to pay for the collection of 100*l.* a year, instead of 50*l.* There is also a risk of greater loss by bad tenants.

1191. And all the other expenses would be in proportion, would they not?—Yes; and a burdened estate certainly would not be as marketable as a smaller estate clear.

Thursday, 26th April 1849.

J.R. Gardiner, Esq.

JAMES ROBERT GARDINER Esq. examined.

1192. WHAT position do you hold in the Duchy of Cornwall Office?—I am Secretary to the Prince's Council, and discharge the duties of Surveyor General of the Duchy of Cornwall.

1193. Since the death of William the Fourth has a considerable change taken place in the mode of managing leasehold property in the duchy?—Yes; in the general management of the duchy property, leasehold and copyhold.

1194. Be kind enough to tell us what the management was before the death of the King; that is, in what way the property was dealt with?—I was not connected with the Duchy of Cornwall until the year 1840; I can only therefore speak generally as to the previous system of management.

1195. What was the general system pursued, as far as you know?—A considerable portion of the tenements of the duchy manors in the West of England were held for lives

by

by copy of court roll, being what are termed "copyholds for lives;" the practice was to make a grant for three lives, and upon the falling in of a life to renew upon the payment of a fine, a certain fixed annual rent, which was little more than nominal in amount, being reserved in the grant.

1196. Can you give us any information as to the antiquity of the custom?—In some of the ancient duchy possessions this practice appears to have prevailed from the creation of the duchy in the time of Edward the Third, but no customary right of renewal existed.

1197. Upon the falling in of a life when a new life was put in how was the fine assessed; was it a fixed fine?—It was not a fixed fine, but was assessed according to the rules that prevailed in the office from time to time.

1198. What were they?—I can furnish the information in detail, but I should wish previously to refer to the documents in the office.

1199. Still you know generally, do you not, this custom of the copyholds being out on lease for lives, and renewable on lives substituted, existed from the time of Edward the Third?—Yes; the practice, I have every reason to believe, existed previous to the creation of the duchy, when the estates were vested in the earls of Cornwall.

1200. You state a different system has prevailed at different times as to renewals. Can you give any idea as to what that difference was?—I have stated that alterations in the general system of management took place on the accession of Her Majesty.

1201. What was the practice that prevailed from time to time before that?—I should have difficulty in stating, without reference to documents, the practice which prevailed at different times and at remote periods.

1202. Has any one life dropped during your time?—Yes.

1203. What was the fine paid on putting in a fresh life?—There have been no fresh lives put in in my time. The alteration in the system of management took place previous to my connexion with the Duchy of Cornwall.

1204. Have there been no renewals in your time?—There have been numerous renewals, but not for lives.

1205. Do you know whether there was any fixed sum paid on the putting in of the fresh life so long as the old system was persisted in?—There were certain terms intimated to the tenant of the duchy by the surveyor general or the officer in the management of the property as to the number of years purchase that would be charged by way of fine on the renewal of one life or substituting one life for another.

1206. Are you not aware of what those terms were?—They varied at different periods.

1207. You say since you have been connected with the duchy no such lease for lives has been renewed; have you granted no lease for lives since?—No; we are prohibited from granting leases for lives.

1208. How prohibited?—Prohibited by the letters patent under which the affairs of the Duchy of Cornwall are administered. Upon Her Majesty's accession a commission was appointed, on the advice of Her Majesty's Ministers, to superintend the general management of the affairs of the duchy, and to advise as to whether any changes could be advantageously introduced in the system of management. The members of the first council or commission, as far as I recollect, were the First Lord of the Treasury, the Chief Commissioner of Woods, the Chancellor of the Duchy of Lancaster, Lord Lowther, Lord Bexley, Lord Portman, Mr. Erskine, then Chief Judge in Bankruptcy, Sir Robert Rolfe, Sir Herbert Taylor, Mr. Milne, one of the Commissioners of Woods, and the Marquis of Hertford, then Lord Warden of the Stannaries, and some of the other principal officers of the duchy. It was in accordance with their recommendation, and with the full knowledge and sanction of the Government, that subsequent letters patent were issued by Her Majesty, in 1838 and 1841, making provision for the management of the estates, and, among other matters, prohibiting the Council or the officers of the duchy from granting any renewals for lives or from taking fines to the extent which had been the practice previously. They were authorized, when the subject-matter of the lease or grant was houses or buildings, to take a fine not exceeding two thirds of the value, and when the principal subject matter was land not exceeding one third of the value. They were required to reserve by way of improved rent at least one third of the annual value in respect of house property, at least two thirds of the annual value when the property consisted of land, but the practice as regards land has been rather to take the whole by way of improved rent, and not to take fines, although we have in one or two cases taken fines, but for house property it is considered expedient to continue to take fines on granting a renewal.

1209. In regard to lands, you do not renew at all for lives?—No; for terms of years only.

1210. You are prohibited from taking any fines for any terms of years as to land which shall not leave at least half the annual value as a reserved rent?—At least two thirds as the reserved rent.

1211. And one third for houses?—And one third for houses; supposing the annual value of the property is 300*l.* a year, and the principal subject-matter of the demise is land, at least 200*l.* a year must be reserved by way of rent, and a fine taken in respect of the additional hundred a year.

1212. Were all life-leases to be run out?—Yes, or exchanged for terms of years

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1213. Then it was to be let on something like a rack rent, at two thirds of the reserved rent, and to take a fine on the one third?—Yes; we are prohibited from granting renewals for lives.

1214. Is this the mode in which they act supposing a case comes of one life dropping; you do not put in another life, and you do not deal with the property at all until all the three lives are out?—We have the power of dealing with the property at any period, because a lessee may surrender his lives, and take a term of years certain; and in some cases we have treated with lessees on that footing.

1215. Do you turn their lives into an equivalent term of years according to the calculations?—Yes.

1216. And you add some term to them by way of extending that term of years?—Yes, if it seems desirable to grant for a term of years exceeding the value of the lives, but in that case a corresponding increase would be made in the rent.

1217. What is your longest term of years?—Thirty-one years.

1218. Is that for land?—Yes, for land.

1219. Renewable at distinct periods?—No.

1220. When you reserve two thirds of the rent in case of land a considerable sum is paid as a fine for the thirty-one years, is there not?—Yes; assuming 100*l.* to be one third the annual value of the land, a sum is paid which is equivalent to the present value of an annuity of 100*l.* a year for a term of thirty-one years.

1221. Will you state if you have dealt extensively with this property; have you had many transactions of this kind since you have been in the office?—A considerable number.

1222. Do you know what number?—The number of leases that we have granted of leasehold or copyhold estates which had been held for lives and have fallen in must be about fifty; but inasmuch as a principal object in the Duchy of Cornwall is to consolidate estates, we have in many cases not granted renewals for terms of years of estates which fell into hand, but made arrangements for their being held from year to year, with the view to their being subsequently granted with adjoining lands as they fall in; and there are at least 100 cases where we have made agreements of that nature.

1223. In that case you acknowledge no right on the part of the tenant to a grant for lives, but you deal with the land in the way you find it most profitable for the duchy?—The parties with whom we deal are in very few cases persons who previously had a beneficial interest in the tenements; because we generally deal with the occupying tenant if we consider him an eligible tenant.

1224. Do I understand you do not deal with the person who has an interest in the lease for lives, but the occupying tenant?—A preference is generally given to the occupying tenant.

1225. Over the lessee?—Yes, over the lessee, if he is non-resident.

1226. Do I correctly understand the case to be this: there is a lease upon three lives; then a life drops, the lessee comes to the duchy, and says, "I want a new life;" you say "No, we cannot give you a new life, we can give you something else in exchange;" that is offered for his acceptance, "Do you like this, if not, we renew on no other terms?" Have there not been cases when parties have refused to renew, and preferred running out their lives?—We never solicit any parties to surrender their lives; and in the case of a person having a grant of a leasehold or a copyhold estate who is not himself in the occupation of the land, it would scarcely be an object with him to ask a renewal, inasmuch as the duchy surveyor would value the estate at what it was worth to let to an indifferent person.

1227. As soon as the lease is run out would you offer it to the occupying tenant on such terms as you thought right to let it to a tenant?—I should myself always prefer an improving occupying tenant to a non-resident or intermediate lessee.

1228. Do you renew at all to the original lessee?—Not necessarily.

1229. That is not your practice?—The practice is rather the other way. We have had a few cases in which the original lessee or copyholder has been desirous of effecting extensive improvements upon his estate, and has surrendered his lives, and taken a grant for a term of years certain; and we find invariably that parties very much prefer the certainty of the tenure to the uncertainty of leases or copyhold grants for lives.

1230. Are most of your leases for lives in small or large holdings?—Generally speaking, small, but a few of them very large.

1231. If a life falls in, with regard to a large estate, do you mean you would not deal with the immediate lessee of the whole estate, but you would go to the actual occupying tenant of each portion?—In the only important cases which we have had to deal with under the new system that has been the practice. I may mention a very large manor in Wiltshire which was in grant for a term of years, comprising extensive demesne lands and numerous tenements granted by the lessee to hold by copy for three lives; the lease was very nearly expired, but a renewal was not granted to the original lessee, whose family had held the manor for a great many years, nor was any fine taken; Her Majesty, who would have been entitled to the fine, approved of the different farms in the manor being granted to the best tenants, and on the most advantageous terms that could be obtained, it being Her Majesty's pleasure

pleasure that regard should be had only to the permanent improved value of the estate, and the interests of any future possessor of the duchy; this manor now produces a rental of 3,000*l.* a year, which will be greatly increased as the copyholds fall in. If Her Majesty had granted a renewal according to the ancient practice, the Prince of Wales would have received about 200*l.* a year from the manor, for the next thirty-one years.

1232. Do I understand, that from the time of Edward the Third or previous to the time of Edward the Third, the custom has been to grant leases for lives?—To grant leases for lives, or make grants by copy of court roll, in the greater part of the ancient duchy estates in the West of England.

1233. Did that custom prevail from Edward the Third to William the Fourth?—Yes.

1234. At the accession of Her present Majesty the system was entirely changed; leases for years alone were granted, and the lessees who held the leases for lives had no preference?—No claim to a preference was recognised.

1235. Did you as a general rule make them any compensation for the loss of expectation for the renewal of the lives?—No.

1236. In any case have you given compensation to the lessees for lives, or to their executors, for the disappointment of their expectation of the old custom being acted on?—I am not aware of any such case, nor do I know that it was ever contemplated, that the officers who administer the affairs of the duchy should have power to compensate lessees or executors for the disappointment of expectations. Every matter connected with the renewals was most fully investigated by three several commissions appointed by different governments, and I do not find that it was suggested by any of these commissions that lessees for lives were entitled to compensation in the event of not obtaining renewals of their estates.

1237. Have you been embarrassed in dealing with property in that way by the claims of executors and others who conceived they were entitled to expect a renewal?—I would refer the Commissioners to the terms of the letters patent under which the affairs of the duchy are administered, which prohibit the council, as far as I understand them, from taking cases of this nature into consideration; and I may state, that the practice now introduced in the duchy of Cornwall is only following up the same course of management which about fifty or sixty years previously was adopted with the Crown lands.

1238. Have they been dealt with as parties having no legal rights, but who might be entitled in particular cases to consideration?—I have no hesitation in stating if a lessee or a copyholder were to come to the council now, and state he had expended, probably on a small tenement, a considerable sum of money in making improvements which would give an additional permanent value to the property for which he could receive no corresponding advantage during his term, the council might probably say to him, that until the existing lease or grant were surrendered or fell into hand they could give no consideration to his case, but in the event of its falling into hand they would, I feel assured, be desirous of considering the circumstances in as favourable a way as they possibly could; but they do not admit any right.

1239. Is that rather an exception to the mode of dealing than the rule?—It is rather an exception; on a large number of the estates of the duchy of Cornwall very little had been done by former lessors and copyholders for the improvement of the property. Before Her Majesty's accession, the buildings on many of the estates had been allowed to fall into a dilapidated and decayed condition, the lands were badly cultivated, and the system of management, both as regards the interest of the lord and the occupying tenant, was as objectionable as can well be imagined.

1240. Has this course and mode of proceeding become generally known among the tenants of the duchy, and notorious?—It is notorious.

1241. Have you reason to believe that the notoriety of this fact has affected in any degree the condition either of the lands or buildings held under the duchy?—I can state that within the last ten years there has been a very decided improvement in the state of repairs of the buildings and the cultivation of the land, owing to the instructions given to the officers of the duchy and local agents to attend to those matters.

1242. Owing, do you imagine, to its being understood that a better or worse condition of the property when it comes into hand would be an element in the consideration of the duchy officers as to the terms or the certainty of the renewal?—That may have an influence to a certain degree, but the great cause of the neglected state of the duchy property formerly was the uncertain interest that the possessors of the duchy and the lessees for the time being had, the system of taking fines, and having only a small reserved rent, and no sufficient attention being given to the state of the buildings or management of the land.

1243. Do I understand the improvement you state as having taken place lately in the condition of the duchy estates is an improvement upon the estates which have fallen into hand, and are put upon a different tenure, or an improvement in the condition of those which are yet to fall into your hand?—Decidedly an improvement upon the whole of the estates of the duchy, whether in hand or not fallen into hand.

1244. And is that equally in regard to such improvements as might be considered landlord's improvements, and also such as might be considered rather as tenants improvements?—

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ments?—Decidedly; because a very great deal has been done within the last few years towards the repairs of buildings.

1245. What interest would the landlord, being aware that he will not get a renewal, have in laying out money on the improvement of buildings?—He is bound by the covenants of his lease, or by the custom of the manor, to keep his buildings in a substantial and tenantable state of repair.

1246. And it is by enforcing the covenants in such cases as you last alluded to that the improvements have been made?—I have found a very ready acquiescence on the part of the leaseholders and copyholders generally in fulfilling every reasonable request on the part of the duchy to place their buildings in repair whether they had an intention or expectation of renewal or otherwise.

1247. Would they lay out money so as to improve farm-buildings according to the system of modern times?—Undoubtedly not to erect new buildings.

1248. Their outlay would be confined to keeping in repair buildings as they had found them?—Yes; that is the utmost that you could expect from tenants under the circumstances.

1249. Do the duchy ever advance money for the improvement of buildings?—Frequently; if new buildings are required for the occupation of the land, and the estate is likely to fall in, the duchy advance money, charging a fair per-centage for the amount of the outlay; and advances are also made for drainage of lands, which is considered a great boon by the occupying tenants.

1250. Is there any rule respecting the drainage, as to what proportion the duchy advance money in aid?—We prefer advancing the whole, charging a per-centage, and taking the entire control of the execution of the work.

1251. Taking five or six per cent.?—Yes. Not less than five per cent. in any case.

1252. Have cases been brought before you when parties have said, "This is all in "settlement, and so forth, and it is very hard on us to lose this." Have you had such remonstrance?—As steward of the duchy manors I have had cases of that kind brought under my notice where copyhold estates have been the subject of settlement.

1253. Are you aware that the copyhold estates of the duchy have been put into settlement, and made the subject of mortgage?—Undoubtedly. I am steward of the duchy manors, and necessarily aware of it; but at the same time the copyholders feel that the duchy of Cornwall is only pursuing the same course that is adopted by other landowners in the West of England, where the estates have been held by the same tenure.

1254. Are you aware whether, in regard to lands held by the same tenure under individual landlords, they were made the subject of mortgage or of settlement in the same way, and where there was the same expectation of renewal?—I have not the least doubt that that must be the case, from what I have heard from stewards and agents of other estates.

1255. Do the operations you have been speaking of as to the Duchy of Cornwall cover a considerable surface?—Yes.

1256. Do you happen to know, or can you give a rough guess of the acreage over which this operation will be passing?—Exclusive of the Forest of Dartmoor, and the wastes in Cornwall, which are extensive, I should think it would probably operate over 40,000 or 50,000 acres of valuable land.

1257. Do you know at what rate the renewals were; how many years of annual value?—They varied.

1258. Are you enabled to state, from your inquiries of old officers, what were the terms of renewals in old leases, whether one year, two years, or two and a half?—From the report books of the surveyor general it appears to have been the practice up to the reign of George the Third to assess the fines either upon the valuations contained in the Parliament surveys or from surveys taken upon the oaths of the tenants, and still more favourable to the grantees, and the fines were fixed upon the following terms:—

One life in reversion of two lives, one year's purchase.
Two lives in reversion of one life, three years purchase.
Three lives, (or an estate in hand,) ten years purchase.
To exchange one, two, or three lives, half, one, or one and a half year's purchase.

During the early part of the reign of George the Third new surveys and valuations were made of the estates, and the fines were assessed on the following terms:—

To add one life in reversion of two, two years purchase.
To add two lives in reversion of one, six years purchase.
To add three lives, (or an estate in hand,) fourteen years purchase.

These rates correspond with the terms then charged for the renewal of the Crown lands. Soon after George the Fourth came into possession of the revenues of the duchy further alterations took place, and the practice eventually became to assess the fines with reference to the actual value of the lives, according to the experience which existed of the probable value of human life.

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1259. Have you considerable acquaintance with the circumstances attendant upon the tenure of Church property in the North of England?—I have, as to the diocese of Durham.

1260. Will you state the result of your experience in that part of the country, especially with regard to the value which Church property has maintained in comparison with freehold land?—The value, of course, depends somewhat upon the situation. I would rather speak of facts, than venture to give a general opinion. In the neighbourhood in which I live, the village of Westoe, near South Shields, there is a large estate belonging to the Dean and Chapter of Durham, extending very widely between the Tyne and the Wear; the usual price paid for land (I am speaking of agricultural and not building land) is from eighteen to twenty years purchase; there have been sales at above twenty years. I have not myself known of any property being sold at less than twenty years, though, in the evidence that was given before the Committee of the House of Commons in 1837, witnesses whom I have entire confidence in stated that they had known of such property being sold at eighteen years purchase; but twenty years, I should say, was the average.

1261. What would have been the value of the fee simple of such land under the same circumstances and to the same parties?—The circumstances are these: the bishop and the dean and chapter, in all the leases that they grant, reserve not only the minerals but also certain privileges on the surface, some of which are extremely valuable, particularly the right of granting way-leaves, so that the lessees do not purchase the absolute enjoyment of the surface, but an enjoyment modified by those rights which are reserved to the lessors. With respect to this subject I would refer to some evidence that was given upon the Committee of 1837, to which I have just alluded, and I think that Mr. Davison, who was the manager for the Bishop of Durham and the chapter, there stated, that he thought the reservation of these privileges might make a difference of three years purchase in the value of the fee; where a vendee was offered an absolute interest in land, with both the unrestricted power of using the surface as he thought fit and also the right to the mines, and was also offered a perpetuity in that qualified interest which was held under the Church, he would give for that interest three years purchase less than the value of the freehold not subject to such reservations.

1262. Was this with reference to property under the Dean and Chapter of Durham?—Yes.

1263. In that are you not assuming the lease to be full?—With respect to that it may seem extraordinary, but in practice there is little consideration paid to the amount of the lease that remains to run; if it were just upon the eve of renewal, of course it would be a matter for consideration; but anything within the first four years after renewal I do not think is ever looked at in the price that is calculated to be given.

1264. How is it that the expectation of paying a large sum two, three, four, five, or six, or seven years hence does not affect the consideration of the purchase money?—It must be remembered that it is only a year and a half's value that has to be paid, and the loss is of the interest on that sum.

1265. Is that the gross value or the net value?—In the year and a half there are no deductions made; it is a year and a half upon the rental; they deduct the reserved rent, otherwise they calculate upon the full actual rental, and make no allowance for repairs or anything of that kind; that is all supposed to fall upon the lessee.

1266. Have you recently sold a leasehold estate which you held under the dean and chapter?—Yes; I sold a farm.

1267. What was the rent of it?—£300 a year.

1268. Was that the gross rent which the tenant had to pay you?—Yes.

1269. Were there deductions out of that which every landlord has to pay?—Yes.

1270. How many years had the lease to run?—It had eighteen years to run. I renewed in June 1836, and I sold in June 1839.

1271. What did you get for it?—I got 6,000*l.* for it.

1272. Was it very near the town?—No, it was not; it was about four miles from the town. It is at a place well known in the North,—Simonside, close to the Brockley Whins Station.

1273. Were there no peculiar advantages in reference to that property which would be developed in other hands than your own?—None that I am aware of.

1274. Did you sell it at what was considered the market price?—Certainly; and I sold a small plot of the same holding, lying at some distance from the village where I live, in the following year, and therefore, of course, there was one year less to run; and there I got exactly the same rate upon the valuation. It was not estimated upon the rental; it was a very small matter; 36*l.* was the valuation that was put upon it by the party who purchased it from me, and he gave me 720*l.*, exactly twenty years purchase; it was part of the property held under the same lease.

 1275. Then

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1275. Then the fact of the fine accruing one, two, three, or four years earlier or later is not much considered in such bargains?—It really is not, in a purchase of any extent or amount.

1276. Does that not show that parties do not look very close to the value of the purchase in such cases?—It shows that they look with the greatest confidence to an indefinite renewal of their leases, considering it as a kind of virtual perpetuity they are buying, and then really the difference does become immaterial.

1277. Have you found any variation in that respect of late years?—Ten or twelve years ago, that is to say, in 1837, when this question was first mooted, a complete stop was put to all improvements and to the sale of property in my own neighbourhood. I know that from my own observation. There was a Committee of the House of Commons, of which I was a member, and of which Lord Harrowby was also a member, and I remember in that Committee the officer of the dean and chapter under whose authority and management the chapter property in the borough of South Shields is, stated that previously to 1837, upon an average of fifteen years from the time of his first entering the office, there had been about 4,000*l.* or 5,000*l.* a year laid out in additional buildings upon the property; that is, there was that value added annually to the estate; but that when he gave his evidence, which was in 1838, the year following, that had gone down to 400*l.*; there had been only two small tenements erected in the meantime. Since then there has been the recommendation of the Committee, that in any future alteration of the tenure consideration should be given "to the customary confidence of renewal, according to local circumstances," (I quote the words of that recommendation,) and this in some measure restored hopefulness and confidence upon the part of the lessees, and they have moreover had ten or twelve years experience of the uniformity in the mode of dealing as to renewals observed by the Dean and Chapter of Durham, not only for themselves, but also as trustees for the University of Durham, which has now become possessed of a large estate there; and I think the confidence is entirely revived, and there has been quite the old price obtained for land, and the old liberality in investing money in improvements.

1278. What do you suppose would be given by the lessees for legal security of renewals?—If I were discussing the matter for myself with any parties who had the power of at once concluding with me what was suggested, I could feel no difficulty in answering the question; but I know what a multitude of persons there are whose very livelihood depends upon the existence of the present system, and I should be loth therefore to give an answer to the question as regards others; yet perhaps it is my duty to give my personal opinion when it is desired of me, and so far as that goes I will mention how it strikes me; it is calculated, as I have stated, that the Church leasehold lands, subject to the existing reservation in the leases on behalf of the lessors, sell for about twenty years purchase; the lessees can pay the present fine, which is one year and a half's rent in seven, by putting aside twenty per cent. every year, that is one fifth of the rent, so that, in truth, when they get twenty years purchase, it is for 80*l.* in the 100*l.*, which is at the rate of twenty-five years purchase for the entirety. But if they had actually the fee to sell, the lessees might get twenty-seven years, or more, even though subject to the existing reservations; and the difference between twenty-five years, at which rate for the entirety they now sell their term, and the twenty-seven or twenty-eight years, which would be the value of the entirety, if sold for an absolute perpetuity, shows that the confidence of renewal, however strong it is, brings something short in the market of what would be given for the legal right of renewal; therefore, I consider that no person could object to pay some such sum as that difference, if the custom were converted into a legal right; but anything that the lessees should pay beyond that they would feel that they were paying without an equivalent.

1279. Supposing that were taken as the basis, or anything like that were taken as the basis, what would be the most convenient mode to adopt for the lessees; would it be an increase in the fine, or an augmentation of the reserved rent, or both?—I do not think that they would like both.

1280. The question does not suppose both in that sense, but a proportion of each, or either separately?—I should say, certainly, the most convenient would be an increase in the reserved rent. I am satisfied it would be greatly for the benefit of the lessees; it is a distressing thing to witness the course of the downfall of parties, which I sometimes necessarily have seen where they have been pressed for their fines. I allude to cases where the fine has accrued, and the parties have made no provision for the payment of it; they must necessarily raise it by mortgage, which there is not any very great difficulty in doing, yet still it is a very expensive course, and although it is obvious that if they had put the money aside yearly, that necessity would have been obviated, we know as a fact that every person is not provident enough to do so.

1281. Do you believe in general that the lessees do provide for the fine by putting aside a sum to meet it, or that they have to have recourse to expedients when the necessity arises for paying the fine?—I think, in general, they do make a provision; it is only with those that are necessitous, in the case of ordinary household property, where this distress is felt. It will happen too with parties engaged in trade where great fluctuations occur, that even when provision has been made, they may be obliged on an emergency to take the sums which ought to be applied to the fines and use them for more pressing circumstances.

1282. Are you acquainted with the circumstances of leases for lives as well as for leases for terms of years?—We have no leases for lives in the neighbourhood where I live, and none under the Dean and Chapter of Durham; but there are leaseholds for lives under the bishop; and I may mention that when I was down in the neighbourhood at the Easter sessions there was a meeting of lessees, both under the chapter and the bishop, and that it was their wish generally to ask permission to send some witnesses before the Commission who might give exact information upon all these points; and I think they proposed to send some of the officers connected with the Church, so that it might not be imagined there was any bias in the evidence that was laid before the Commission.

1283. To what extent did you imagine it would be advantageous to allow the increased reserved rent to run up; as to what proportion of the rack-rent value?—It might simplify the proceeding, as it appears to me, if you were to continue the present fines; and whatever was paid in the way I have mentioned, as the consideration for having an assured perpetuity in the place of an expected perpetuity, should be added in the shape of an increase to the reserved rent.

1284. Do you not say that there are great evils in the ordinary system of fines, owing to its being very burdensome to parties, except when they had sufficient providence to lay by beforehand money or to insure, and which circumstance would therefore make it rather desirable at least to diminish the amount to which that system extends?—It will be so, certainly, as to small proprietors, but I think generally parties who are lessees to any considerable extent do make provision beforehand.

1285. You spoke just now of having witnessed scenes of distress, and of families ruined, owing to the necessity of raising sums of money at a particular moment for the purpose of paying fines; under such circumstances do you not think it would be beneficial, at all events, to diminish the amount of such fines to some extent?—When I spoke in that way I was referring to the case of house property, of which there are many small holders at Shields. I know that it was given in evidence by Mr. Stodart that he had above 800 leases in the town of Shields.

1286. Are those the parties to whom you allude as most subject to distress in consequence of being called upon to produce the fines when they had not the means?—Yes; the only reason that would make me say a fine would possibly be preferable is this, that if the fines were commuted into an annual rent, there would be less perhaps of that sense of ownership which is felt now by the lessees; any person who has to do with land must know the great diminution that must be made from the nominal rent before he can rely upon putting any funds into pocket, and if there were a great sum to be taken out of that residue every year in the shape of reserved rent and commuted fine, the lessee would be scarcely more than the bailiff for the Church; he would be merely receiver of the Church rents. I think, therefore, it might be more satisfactory, if he were made to become something like the purchaser of an interest every seven years, as he would feel then more the interest of the owner of the property than if there were a large rent-charge.

1287. Do you think that you would not have the same class of leaseholders under the Church?—I think so; yet the main thing with a lessee would be what would be the gross amount he had to pay to the Church; for my own part, I think a combination of the two systems, speaking individually, would be that which I should prefer.

1288. When you take the one year and a half as the fine, is that a year and a half of the rental simply, or with what abatement, if any?—No abatement at all, as I understand, except the reserved rent. I have been looking to see exactly what occurred to myself. I referred to a property which I have at Westoe; the house is in my own occupation, so that I cannot say exactly what rent is to be put upon it. I should say that 570*l.* a year would be the value of the whole; a year and a half upon that is 855*l.*, and I see the last fine that was set me, was 866*l.*; then I do not deduct the reserved rent, which was about 7*l.* a year. I have no reason to think the valuation was at all above the rental that could fairly be obtained.

1289. Was that house in which you live built by your grandfather?—Yes.

1290. Do you know at what cost it was built?—No; it was built more than ninety years ago.

1291. Is it not a very substantial one?—Yes.

1292. What do you insure it at?—I insure the house for 2,400*l.*, and the stables for 400*l.*: it is a good village house, something like a rectory house.

1293. Is there not another house upon your property which is now a farmhouse, but occupied by the family before your grandfather built that in which you now reside?—Yes; and that is insured for 870*l.* I think it is better than a farmhouse; some part of it is occupied separately.

1294. Would there be an allowance for land tax in the fine?—I do not think there is. I think the land tax is redeemed; we pay to the dean and chapter, when we pay the Pentecost rent, as it is called, that is the reserved rent, the amount also of the land tax; but it is very small upon that property.

1295. Is this rent set upon the assumption that the tenant does the repairs of the landlord?—The lessee does all the repairs.

1296. Does

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1296. Does your tenant do all repairs?—I do all the repairs, as any landlord would.

1297. Is the rent which you referred to rent which you could get from a tenant, you, the lessee, being liable to all the repairs?—Yes, to all the landlord's repairs; the lessee of the Church pays for all the repairs.

1298. Do you mean all which a landlord with a tenant at rack rent usually does?—Yes; and draining, and everything of that kind.

1299. Do you find there is any distinction in the apparent cultivation or thrift of the property under the Church and property under other landlords?—I am but a bad judge of agricultural matters, but I know that in my own neighbourhood there is a very large produce, four to six quarters an acre.

1300. Is that upon Church land?—Yes, and it is very highly let; I let 100 acres for 275*l.* a year, which is a large rental.

1301. Is that arable land?—A fair proportion of arable land; perhaps rather a greater proportion of grass land than is usual elsewhere; it was stated to the Committee of 1838 that in the manor of Westoe it was pretty nearly half and half.

1302. Is that property tithe free?—No; the tenant pays the tithe.

1303. What! besides the rent?—Yes, he does; some portion, however, is covered by a modus, that is the hay tithe. I have at some distance a little farm half freehold and half leasehold lying intermixed; there is no difference in the treatment of the same farm, and I do not think that there is anywhere in the North. The Commissioners have the report (I believe) of the former evidence before them taken before the Committee in the House of Commons, and Mr. Davison, who is a most extensive land agent, besides being agent for the Bishop of Durham and the dean and chapter, gives his opinion very strongly indeed that the land could not be better cultivated. He particularizes three great tracts under the Church of Durham,—one 10,000 acres, between the Wear and the Tyne, and another 10,000 acres near the Tees, and another large estate upon the banks of the Tyne near Wallsend, near the famous Wallsend collieries.

1304. Can you give the Commissioners any information with respect to the mineral property in the county of Durham held under the Church?—I have nothing to do with it personally. I know that there is a very great benefit derived to all persons interested in mines, and to the public at large, from the right that the Dean and Chapter and Bishop of Durham reserve of granting way-leaves. I believe that has had more material effect in bringing down the price of coal in London than almost any other matter since that reservation was introduced, at least expanded, in their leases (because it existed, I believe, in the first lease that was prescribed by the Council of the North in Queen Elizabeth's time); from the great tract of property which is yet in the hands of the Church, they have enabled coalowners living at a distance to come through a district of twenty miles at an uniform rate of way-leave, whereas otherwise they would have to make separate bargains with the different landowners, and there have been enormous sums paid (I have known at the rate of 100*l.* an acre paid yearly) for the privilege of coming through inclosed land. This is a matter which is of great importance to the public, and to the interest of the lessors; it makes the occupation of the land not so productive as it would otherwise be to the lessee of the surface, as he is liable to have his fields cut up and broken, and though they always pay for the damage, it does not compensate the inconvenience.

1305. I see in the evidence given before the Committee of the House of Commons an extraordinary instance of outlay upon this property in your neighbourhood; a case of a gentlemen who laid out 2,000*l.* or 3,000*l.* in building a house?—Yes, I am aware of that fact; it was the last house built in Westoe.

1306. How long ago is that?—Ten or twelve years ago, and he built the house upon an acre of land. I know that what I am about to mention was in evidence in 1838, yet I should wish to notice it as an extraordinary fact, to show conclusively what confidence the tenant has in the custom of renewal, and how the Church reaps, as they ought to do, a benefit from it. In the town of Shields there is house property yielding an income of between 30,000*l.* and 35,000*l.* a year, created upon twenty-one years leases.

1307. And within what time has it all arisen?—That I do not know; but 4,000*l.* or 5,000*l.* is laid out additionally every year, and there have been very large manufactories built.

1308. Are the renewals fixed, or are they varied every twenty-one years according to the value of the property?—There is a fresh valuation every seven years; and, as I have said, nothing can, in my opinion, be more justly and fairly done. In my own case there has been no alteration for the last twenty years in anything I hold, neither has there been any alteration in the rents I have received.

1309. Is that because your land has been cultivated in such a way as to be got into perfect order?—Yes. I have not answered the question correctly. I was thinking merely of land. They take into consideration the increased value of house property. What they do is this: for the first seven years they do not take the value of house property into consideration at all; if a house is built of a certain good description, such as they wish to encourage, and as I believe according to a certain uniformity of plan, they do not take the value into consideration for the first fourteen years, so that a person who has nominally a twenty-

twenty-one years lease has practically a thirty-five years lease; and also, in the case of docks or large manufactories, where there has been a very large expenditure of capital, sometimes they go for fourteen years without asking any increased fine for the improvement; but they never ask for any addition to the fine upon the first renewal after the improvement.

1310. Are you quite correct in saying that the result of that is to give them thirty-five years?—Yes, I think so; if they begin to build on a full lease of twenty-one years, then the chapter would not take the new building into consideration at the seven years, and sometimes not at the fourteen.

1311. You would begin to pay, not at the end of your term, but the period of renewal; supposing you had begun with a full lease, twenty-one years, but they did not take the improvement at the next renewal, then it would be twenty-eight years; if they did not take it until the next seven years it would be thirty-five; so that supposing you start with a full lease it does become thirty-five years?—Yes. Suppose the lessee were to say, "I will not "allow you to participate in my improvements; I will run out my lease;" he would have an opportunity of expressing that opinion after he had got his renewal at the old rate of fine at the end of fourteen years; thus he is always sure he can have thirty-five years if he wishes it, without paying a fine on his improvement. In practice the lessors come into the receipt of a fine on the improvement at the end of the first fourteen years.

1312. Then it continues the stated time of renewal after the first fourteen years?—Yes, until some fresh improvement takes place.

1313. Or a deterioration?—Yes, or a deterioration. I should mention, that since the last inquiry, that is, within the last four or five years, there has been started almost a little town on the dean and chapter's property, at a place called East Jarrow, which is upon the Jarrow Slake, a great recess within the mouth of the Tyne, and very near the old monastery of Jarrow; there have been built two alkali works and a dock-yard, and a large iron chain and cable manufactory, and a great many dwelling houses.

1314. And has all that been done on a twenty-one years lease?—Yes, on a twenty-one years lease.

1315. And is it upon the confidence that there would be no fine for improvements for fourteen years?—Yes, that is so. It is right I should add, I am sorry to say, that this speculation has not answered, but that several of the factories have closed; that, however, arises from mercantile causes, the stoppage of a bank, and is not connected with the tenure.

1316. Can you give any information with respect to the mines?—I know that there was a colliery sunk very recently near Westoe, and there was some question as to the terms upon which the outgoing partner should sell his interest to the continuing partners; the matter was referred to me professionally; and of course I had before me the expenses which had been incurred in winning the colliery, and that was above 60,000*l.*; this was before any coal was brought up from it.

1317. Was that on the dean and chapter's property?—Yes, the dean and chapter's property.

1318. Is there any further information you would wish to give?—I have been asked about a farm that I sold; I may mention that the lease I had in respect of it was an example of the nature of the old Church leases, and showed how very little they resemble common farm leases, and how likely they are to encourage the tenants in the notion that they have an interest in the land dissimilar from the interest of an ordinary tenant. In my lease there was no description of the parcels; it was merely so many "oxgangs of land" in such a district; there was retained in it a covenant, which has before been mentioned, that the lessee should do military service whenever required by the dean and chapter and their officers. This was part of the consideration for the award of the Council of the North, in 1577, that the Queen could not have Her borders protected if the tenants were impoverished. One of these leases to which I refer was property which had been under settlement, and the lessee on whom this obligation was then cast was the widow of the last trustee.

1319. How much is an oxgang?—I am not certain, but I believe it is considered to be as much land as could employ an oxen-draught for a year's tillage.

1320. Are you aware that these oxgangs are of all sorts of sizes?—I believe that is the case; it ought also to be mentioned that the leases of the chapter always contain an intimation of when the seven years are to expire; there is indorsed on the lease a notice of the extent of the term, and that the seven years will expire on a stated day; this, and the uniformity of style in the old leases, have gone to engender a kind of persuasion in the tenant, which I am sure the chapter has fully justified, that there is no intention on the part of the lessors at all to innovate upon the old usage; and I would wish to state to the Commissioners, that after this question has been agitated now a second time, there is a very earnest wish indeed that the matter should come to a final settlement. I was one who had hoped that in the interval since 1839 the subject had been abandoned, and that we were to go on as we had done previously; but of this I am quite sure, that we cannot stand another period of such depression of property as took place after the first mooting of the question, if it is to result in nothing.

 1321. Was

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1321. Was confidence restored from the intimation given by the Committee of the House of Commons in their recommendation?—Yes. Do you mean the recommendation of a consideration of the claims of the lessees?

1322. Yes.—The words of the Committee were, as I remember, that in settling the question they "ought to consider the customary confidence of renewal, according to local "circumstances." That was the language of the recommendation; and the lessees see with satisfaction that, now, Her Majesty's Commission states that the Commissioners are to have "a due regard to the just and reasonable claims of the lessees," and this also makes them hopeful of the result of the present inquiry.

1323. Do you mean that it would be difficult to restore confidence a second time, unless the matter were finally settled?—Yes, I do; I consider it is very desirable to have it settled. I may add, that lessees having lived for a long time upon the same property have acquired peculiar feelings with respect to it.

1324. Would there be any great legal difficulty, in the case of settlements, in converting the securities which have hitherto been taken for continuing the payment of fines into securities for continuing the payments in any other shape which Parliament might hereafter desire to adopt in carrying out any recommendation for a change of tenure, or for a prolongation of the tenure?—There are many members upon this Commission who could give a better opinion upon this subject than I can; but I do not think there would be any difficulty; there are, I believe, provisions for this purpose in the Irish Church Temporalities Act.

1325. I wish to put this question:—It has been suggested it would be an extremely desirable thing if all these Church leases were registered; it has been further suggested it would be advantageous if the lessors should be bound to deal only with a registered interest, that is, a legal estate, and that it should be no part of their business to look into the equitable estate, there being great expense occasionally incurred by the lessees being told by the lessors, when they want a renewal, "Somehow or other it has come to our "knowledge you hold this on certain trusts, and there are certain incumbrances, and we "are bound to see those trusts are fulfilled and those incumbrances provided for." Is it your opinion that the lessor should take notice only of the legal estate, and should not be bound to pay attention at all to the equitable estate?—I believe at present the lessors only look to persons who have the legal estate.

1326. Is it the fact that in the North they only take notice of legal estates?—Yes, that is so; a party must apply for a licence to alien; supposing a party going to raise money by mortgage, he must apply first of all for a licence to alien, which is granted as a matter of course; he applies to the agent of the dean and chapter; he states the particulars of the property, and the party to whom the estate is to be transferred, who is to be the assignee of the lease, the mortgagee that advances the money; that is submitted formally to the dean and chapter, but I do not know that they ever refuse the licence to alien; at the time of renewal a fresh lease is granted to the mortgagee on surrender of the assigned lease, and the party who was the alienor of the lease entirely disappears from the consideration of the Church.

1327. In your opinion would there be any difficulty in providing a registration based upon the principle that the lessor should take notice only of whether the estate appears upon the register?—Certainly not.

1328. Is it the fact that at present they take no notice of any other estates than those which appear?—No.

1329. Do they take notice of any trust?—No.

Mr. G. Emery.

Mr. George Emery examined:

1330. Are you the same gentleman who gave evidence in the year 1837 before the Church Leases Committee?—Yes, I am.

1331 Are you now, as you were at that time, the confidential agent of the Bishop of Bath and Wells?—No; I resigned about half a year ago.

1332. We have been looking generally over your former evidence; do you wish to add to it?—I can only add, in corroboration of that evidence, what I anticipated has been carried out, namely, the great derangement we are in for the want of a settlement of the question one way or the other. I am not here to give evidence upon calculations as to the best mode of settling the future tenure; not being a mathematician, the calculations I have seen only puzzle me. The object of my evidence is chiefly to show that the state of Church leasehold property is deteriorated and deteriorating every day for want of a settlement. There is no demand compared to what we used to have for this species of property. In 1836 commenced the derangement, if I may make use of that word, of the tenure, when the Act passed in regard to the exchange of lives. I foresaw what the effect of that Act would be; and I am now perfectly convinced I was right that it was a wrong measure; that the injury to the Church through not permitting the exchange of lives to be carried out in the simple manner as heretofore practised, has prevented great improvements which used to take place before, in consequence of the parties being always able to make it a family property.

property, and other arrangements. I mean by the exchange *even* of *young* lives for *older* ones to induce the lessees to lay out their money; that has since in great measure been prevented, and this has been the consequence of it.

1333. The evil you anticipated that would arise, and which has arisen, is, that people will not improve under the present system?—They will not; and we now individually begin to feel the effect of it. My immediate family having 200*l.* a year at this present moment in a manufactory which has been void for years, I have had application upon application to turn the building to a variety of uses; but when I show the tenure of it there is an end to all treaty; the parties say there is now such an uncertainty in the present holding of Church property they will not deal with it. Since these alterations have been mooted you cannot induce parties to lay out large sums of money, as they used to do.

1334. Is this property to which you refer upon lives?—Yes; which is the best holding next to freehold. The effect of it is also visible in many ways besides; improvements are stopped; people are paralysed in their progress in regard to purchasing or doing anything with the property, which was as tangible when put up by auction, and sold as freely, as any freehold; there was no difference. I have known it approximate very much to the price of fee simple; but now it is not so; people do not look at it with any degree of security.

1335. Does this arise from two causes; the one the prohibition to exchange lives, and the other the want of confidence in the renewal created by the recent agitation of the question?—Yes; the agitation has so unhinged people's minds that they do not know what to be at; the property cannot be disposed of in the readiness it used to be. It also operates in the same kind of way in regard to incumbrances that are on the property, which are to a very extensive degree. I will engage to say two thirds of the estates in my diocese are under mortgage or settlement. People are beginning now to be alarmed; they are calling in their money, and they will not allow it to remain upon the property which they used to do. I have known mortgages continue up to where there has been one life only upon it, such was the certainty of the renewal; that is not so now, and confidence is shaken to the foundation. And there is also a moral feeling upon the subject, as well as a temporal one, going about; it is creating an uncomfortable excitement in people's minds against the Church generally, which I never used to hear of; people are expressing their fear of danger to the stability of the Church, which is shaken by so much interference in temporal matters.

1336. Do you mean the Church has become unpopular in consequence?—Yes.

1337. Do you mean in consequence of this Commission, or from other causes?—Certainly not from this Commission; we are looking forward to the Commission doing good.

1338. By settling the question?—Yes; just so.

1339. You mean the Church is becoming unpopular through the apprehension which the lessees entertain, that their rights, or their customary rights at least, will not be respected hereafter?—Yes, in great degree.

1340. Do you mean that the interest of the lessees and the interest of the Church are put rather into an antagonistic position?—They are; people express their carelessness of abusing the Church and those connected therewith.

1341. Is that not confined to the lessees and to their immediate connexions?—No; it creates an unkind feeling throughout the neighbourhood. If they are not immediate lessees they catch hold of it, and it becomes matter of conversation with other people, and they get contaminated.

1342. As to this matter of exchange of lives, I see by your evidence before the Committee of the House of Commons that in your diocese when the life was exchanged some fine was paid on the exchange?—Yes.

1343. Was not that in fact similar, although not exactly an identical operation, with putting in a new life?—It was very similar to it, but it was calculated upon a lower scale of fine.

1344. Suppose that to be an unobjectionable mode of dealing with the property, if you found there was a district in which when a new life was put in it was the practice for the lessee to change an old life for a new one, and pay nothing for it, would you approve of that?—I look upon the immediate payment to the lessor as the least consideration, because no one would wish to exchange his lives except for some purpose of improvement or family arrangement.

1345. In the case of an exchange of lives was there paid what was then considered to be a reasonable consideration for the difference in the lives?—Yes.

1346. If there should be some diocese in which the careless habit had been to allow the lessee to put in a new life, and when he had made a bargain to allow him to say, "Come, "it is no great consequence to you about these two other lives; let me change them, and "pay nothing for that;" what should you say to that?—I should not consider that an equitable treaty.

1347. Would your notion of the equity and policy of the case be met in case renewals were introduced, that there should be no exchange of lives unless some reasonable consideration was given for it?—That would be the principle; but the exchange itself produced the effect of improving the property. Properties are put together in consequence

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of it; for instance, several small estates or properties might be put together in one lease, and then it would be worth a lessee's while to make his drains and fences, and to erect a farm-house and other buildings on the land, and thereby bring a fine of 400*l.* or 500*l.* to the Church on the death of a life or lives.

1348. You would not have objected, would you, to an expedient which prohibited people from exchanging old lives for young without paying something to the Church for it?—No; I never knew of such an instance. I will state a case of my own; I purchased up several small leases held upon the lives of persons of all ages and descriptions. I then went to the bishop, and said, "My lord, grant me three new lives; my own shall be one—(I was then fifty-five, so that it was not exchanging an old life for a young one)—and "my two children; I will make a good estate, and build a house upon it." The bishop did it, and for which I paid a certain fine. What was the consequence? It is now a nice estate, instead of lying about in detached pieces and not of that value. It has a house built upon it which cost me 600*l.*, and is become a valuable property to the see; there are three lives upon it, myself one, sixty-five; my two children, forty-three and forty.

1349. I understand you would not have objected to a *regulation* of an exchange of lives; what you did object to was the exchange being *abolished* altogether?—Yes, I do. I have heard that exchanges of lives have taken place between bishop and lessees for no consideration, but I believe those are exceptions; in fact, lives can be exchanged in certain cases at the present time, but the process is too expensive and troublesome to go to the Archbishop of Canterbury, in *small* properties especially; it was certainly not the general rule, the general rule was always to pay a fine.

1350. Have you any plan you would wish to suggest to the Commission?—In regard to any plan, as I have before observed, the calculations I am not capable of going into; but I think the matter may be simplified; and I think the whole Church property might be put into a better condition, and more beneficial to each party; there is great room for improvement of Church revenues and great room for improvement of Church property by coming to some adjustment. In my opinion, every diocese must stand upon its own customs; because they vary to such a degree that it is impossible for you ever to hit upon any one plan that will meet the whole of the holdings in the kingdom; and I have thought the matter might be arranged by a commission sitting in London, and an assistant commissioner in each diocese, so that an arrangement might be entered into with a great deal of ease and simplicity between the parties, and that it might be done partly by a quit rent and partly by a money payment which could be revised periodically. I am a strong advocate for keeping the power and control of the fee and reversion in the hands of the Church; I am not one of those individuals who wish to take from the Church that which they ought to preserve, and which they have always enjoyed; and whatever plan may be adopted I should hope to see the Church continue its power over the property in some shape or another.

1351. Do you mean that the fee should not be parted with by the Church?—Yes; that the fee should not be parted with; there should be a periodical time when you should apply to the Church to have your lease, or whatever your new title may be, re-granted; and that there ought to be a re-valuation of the property every twenty-one years, so that the improvement, whatever it is, should be divided between the Church and the improver, that is, the person who has laid out his money; that each party should participate in it; that it should not go solely to the lessee nor solely to the Church, but that it should be apportioned.

1352. What is the particular mode by which you would arrive at that object?—I have thought it might be done something in this way. It must be done by a voluntary treaty in the first place, say for fourteen or twenty-one years. For that period you must allow the present tenure to exist, in order to meet all incumbrances and private arrangements that are now upon it; during that time whatever plan might be adopted should be optional on the part of the lessees to come and treat with the bishop; at the end of fourteen or twenty-one years then it should become compulsory.

1353. And what is the kind of alteration which you would suggest in the nature or terms of the tenure?—That there should be a valuation taken of the existing lives, or whatever the tenure may be, to find the marketable value, which is very easily ascertained, and which is greater than the interest the Church has in it. I think that should be ascertained whenever the treaty was entered into between the parties, and the reserved rent fixed according to circumstances. Supposing the value of the Church to be eighteen years and a quarter, which is the value for the three youngest lives you could put in (as it has always been taken at this scale by the actuaries), as the greatest value the Church has in it.

1354. Do I understand you to mean, that the Church in granting a full lease for three good lives grants that which could be sold in the market for eighteen years purchase only?—No; if the property fell into the hands of the bishop, he would re-grant it at eighteen years and a quarter's purchase for the three youngest lives; and the moment that lease is granted the lessee could put it up by auction, and *he* would get from twenty-two to twenty-five years purchase; and upon this principle, that the faith in the practice of renewal alone is such that people speculate upon it; it is an assumed right; it is a right from immemorial custom; a right we have always looked forward to have granted, which makes the property marketable at twenty-two or twenty-five years purchase.

1355. Do

1355. Do you mean it was so before?—Yes, before 1836; it is not so at the present moment, and this in consequence of the agitation; we now cannot get purchasers at anything like the money.

1356. Are you aware that three new lives are equal to a lease of seventy-three years, according to Mr. Finlaison?—I cannot think it can be as much as that, although I have known certain estates where there has been no renewal on them for fifty, sixty, and even up to seventy years.

1357. Are there not the intermediate fines to be taken into consideration, when each of those lives drop?—Yes. If you take the value of the property in the Church at eighteen years purchase in round numbers, and twenty-four years for the marketable value, there would be six years difference. I think you might divide those six years between the lessor and lessee, putting a quit rent upon the estate for the moiety belonging to the Church at four per cent. interest. The property, whether it be improved or deteriorated, at the end of every twenty-one years to be re-valued, whether for or against the Church, either one way or the other, still keeping the principle of diminishing or adding four per cent., the same as you first set out with, because it is possible that the property may be diminished, by natural causes, and the person then in possession should have the advantage of being able to have for the next twenty-one years his rent reduced in the same proportion as he would have it added to if it were increased in value.

1358. Do you mean according to the rate of expectation that had prevailed in the respective neighbourhoods, as evidenced by the marketable sales?—Yes, because it is a right which we think we have; at all events the value has been produced by the lessees themselves. It is the lessees who have caused that value by the outlay they have made upon the property, the Church never having laid out anything, and never having been at any expense. The whole improvements of the property, except such as have occurred by natural causes, have been made solely by the lessees.

1359. You mean, do you not, by the lessees or their under-tenants?—Yes; but that comes to the same thing; that would be a matter of arrangement between the original lessee and his under-tenants.

1360. You stated something about a combination of the increased reserved rent and the fine; what did you mean by that?—I think that it might be commuted.

1361. But in the way you were putting it just now, did you not leave out of all account the fine?—No, not all account.

1362. Would you leave the fine system as it is, but the compensation for the security proposed to be given for the perpetuity to be taken in a reserved rent?—What I mean is, that the fine should be paid over to the lessor, either in money, or, by arrangement, either by rent solely, or partly by rent, and partly by money payment.

1363. Do you propose keeping the fine as it is?—Do you mean the fine upon the death of the lives?

1364–5. Yes, upon the renewal. Do you not keep by your plan the reserved rent only for the difference between the present and the increased value, which is now to be given for the security of renewal?—No; by a money payment in part, or by a reserved rent.

1366. How will the instance you have put work out then?—The increased value might arise from building and outlay. Supposing an estate to be worth 100*l.* a year when the commutation or treaty took place, and it should become worth 150*l.* a year at the end of twenty-one years. I mean that 25*l.* of the 50*l.* should belong to the Church, and 25*l.* of it should belong to the lessee; that 25*l.* of it to be paid to the Church, either in money or paid by way of interest at four per cent. in the shape of rent on that amount.

1367. According to this arrrangement, as you now put it, supposing a lessee were to lay out a considerable sum of money in farm buildings and houses, would you propose that his remuneration for that should be that he should not pay anything in addition for twenty-one years, and then that he should only pay half?—Yes.

1368. Do you think that that would be sufficient?—I do not know whether it would be sufficient; what I wish to express is that it should be something upon that principle. I am endeavouring to simplify it.

1369. Are you not enunciating a principle rather than fixing the terms?—Yes. I do not know whether the proportions I have mentioned are just, whether it should be *half* to go to the Church, or two thirds, or one third. I am only thinking of adopting some simple mode that will satisfy the lessee, and still not injure the Church.

1370. Are you referring only to improvements now that take place by the outlay of capital on the part of the lessee?—Yes, or arising from other circumstances. If the property become more valuable from any cause whatever.

1371. Do you mean, from whatever cause the property became more valuable, that the Church should have a benefit in that?—Yes, to a certain extent.

1372. And however it arose, or from whatever circumstance, would you give the advantage of half of it to the lessee?—Yes; and in some instances more.

1373. Would you give no more than half to the lessee if it arose from the expenditure of his own capital; and would you still give him half if it depended on the cultivation of his tenants?—Yes; the latter to be divided by arrangement between the parties.

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1374. And would you do the same if those improvements have arisen from changes which have taken place in the locality?—Yes. What I wish most to press upon the minds of this Commission is, that the time has arrived when something or other must be done; the property of the Church now is in such an uncertain and deranged state that if something is not done I do not know what will be the result. The number of families I know that are at the present moment under pecuniary difficulties is very great, and it is becoming daily worse.

1375. If that is the case will not renewals be partially stopped?—It would be thought that renewals would be increased, because it would naturally be said, "Why does not every "one now rush in and renew;" but that is not the case, it has not had that effect.

1376. Would you wish to see leases for lives converted into leases for terms of years?—I am not sure that I should; but we want the question settled in some way.

1377. You seem to have been accustomed to leases for lives in your diocese?—Yes, that is so.

1378. Are there many of what they call lords farmers in that district?—No, not many; there are some in the lower part of the county.

1379. When you say the lower part, do you mean nearer Devonshire?—Yes. In our district we have never treated a leasehold property in any degree differently from the mode in which we have treated freehold. I hold a considerable property of various kinds, and any person may go into my parish, where there are 3,000 acres held under the Church, and they will not be able to see the least difference between that which is freehold and that which is held under the Church, except as to timber.

1380. Have you had instances in your diocese of considerable estates being run out?—We have had some instances; not many.

1381. Was there not one, a very considerable one, in the case of the Wivilscome property?—In that case it was not run out; it was nearly so. The property was sold under an Act of Parliament, and the money laid out in buying an estate; and I understood the bishop lost a great deal of money by it. Although it has been condemned by some persons, I thought it a very fair transaction.

1382. Was not that a case of a lease upon terms of years converted into a lease upon lives?—No, I believe not. I should state that the uncertainty of the incomes of bishops vary very much from one year to another, which I consider an evil. I have had to pay over to the bishop only 400*l.* or 500*l.* for one year, and the next year there would be 2,000*l.* or 3,000*l.* to be paid; and that has occurred frequently in a manor, arising from renewals. I should also wish to state that there has been a great deal of the Church property lost. I have found fields claimed as freehold which I have traced to be leasehold, and have recovered them in several instances. This has been owing more to the careless manner in which the business in those times was transacted, and there being no maps nor other documents to refer to.

1383. Do you mean that the boundaries were not accurately defined?—Yes; the course was to send down a stranger to value the property. When the renewal took place that stranger would go to the tenant; the tenant would show him what land he occupied, and, being an ignorant man, he would not think about any detached property which there might be, of twenty or thirty acres, in the occupation of another person. I recovered fourteen acres after its having been left out for more than forty years; I found on looking at some title deeds that the property was much larger than was stated; I immediately made inquiries, and traced that it had been surveyed by surveyors who were strangers to the property, and who resided perhaps twenty miles from the place, and who had not been told that the estate was in the possession of two parties, nor indeed was it at that time known to be so. This matter is now much rectified by having maps and plans prepared. This state of things occurred in the manor which I had the management. I took charge of it wholly out of a kind will towards the bishop, residing as I then did in the parish, and knowing every inch of the land and the old customs. I was neither a professional man nor a surveyor; but the bishop asked me if I would look to the property and take the charge of it, and I acceded to that request, and had the charge of it for twenty years and upwards, and recovered considerable property which otherwise might have been *lost*; and brought the manor into such a state that it can now be identified in every particular, and that entirely owing to being resident upon the spot, and knowing all its customs and boundaries.

1384. Is there any other subject upon which you wish to afford information?—The principal thing that I should wish to impress upon the Commission is, that the time has now arrived for settling Church property, and that I hope this Parliament will not be dissolved without some measure or other being brought in which shall decide the question; and I should wish again to add, that the present suspense is creating unpleasant excitement, with regard to religious feelings, against the Church, as well as to the great detriment of the property, with which *tenure* we were quite satisfied, until 1836, when the question was first mooted.

Richard Bloxam.

RICHARD BLOXAM Esq. examined.

1385. ARE you a London solicitor?—Yes, I am.

1386. What is your particular acquaintance with the subject of Church leases?—I should state that I have been requested by a Committee, known, I believe, as the Duke of Richmond's

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mond's Committee, to turn my attention to the matter. I have looked through a good deal of evidence which has been given on different occasions upon the subject. I have had frequent occasion to consider the matter, having been concerned for parties having property of this description; and my family having some in their own hands, I have had frequently to calculate the advantage, and to consider the propriety, of accepting building leases; so that I have had to consider the subject a good deal from time to time. But I have more particularly turned my attention to the different modes of commuting the several interests, with a view of stating my opinion upon the question, in the hope of being able to offer some practical suggestions which may be useful. I have prepared a written statement, which, with the permission of the board, I will proceed to read.

[*The following statement was read by the Witness.*]

I assume it to be agreed that the present mode of letting Church Estates is prejudicial; and, further (though it does not necessarily follow), that it is advisable to change the system. If it was before doubtful, it can no longer be so after the question has been so much mooted and so favourably received by various committees.

There are several plans to be considered,—

First.—The lessor to sell to the tenant. This appears to me very objectionable on the part of the lessor, as endangering the interests of the Church.

Second.—The tenant to sell to the lessor. This also appears to me objectionable, as bringing the Church in immediate contact with the occupying tenants, making them the immediate landlords.

It would, I think, be unjust to both lessor and lessee to compel either of these plans.

Third.—Parliament might enable the lessors to run out the leases. This, I think, would be unjust to the tenant, and be open to the objections applicable to the second plan.

Fourth.—The two parties might be made tenants in common, according to their relative interests, with provisions for facilitating partitions. This would be more equitable between the two parties, but would be attended with all the same objections as the second plan and some others.

Fifth.—The lessors might take the land and pay a rent-charge to the tenant. This has the same objections as the second plan, and, in addition, would often place the lessors in great difficulty to know to whom to pay, and they would frequently pay to the wrong persons.

All these plans are, as it appears to me, objectionable on behalf of the Church. I do not dwell upon these, as my object has been to devote my attention to the one remaining plan, which appears to have met with most general favour, viz.

Fifthly.—To give the land to the tenant upon his paying a *perpetual rent-charge* to the lessor.

It appears to me that there are advantages to the Church in this plan which must be obvious to all who wish to support the Church; but there is one serious objection, that a fixed sum may at some future time be of half the value it now is. This objection will be met presently.

In considering the proposed change it is important to consider how it will affect settled estates. It is quite clear that the measure must be *compulsory*. It will not do to give a tenant for life an option either to run out his lease or to convert it into perpetuity, as it may clearly be for his personal benefit to run out the lease rather than commute his interest for a perpetual one, although it would be greatly to the prejudice of the remainder-man. If the lease is held upon lives one would probably be his own, and he would be satisfied with this.

If this renewable interest is converted into a perpetual one, a tenant for life will have no right to complain, as the position the tenants take is, that they have been accustomed to deal with these estates as perpetually renewable; and it may be observed, that it is customary in settlements, where a power of sale is given, to direct the money to arise from the sale of property of this description to be invested in the purchase of freehold.

The fact that it must be compulsory in these cases is a strong reason why the terms should be just and equitable.

If the last plan suggested is the best for the Church it is a reason why it should be carried out liberally towards the tenant.

I now proceed to consider this *plan*, and it must be borne in mind that no great change of this kind can by possibility be effected so as to be perfect and just in all cases.

The most important question is the *ascertaining* the relative *values* of the lessor and lessee's interest.

It appears to me that all attempts to do this have been founded upon one common error; viz.

Attempting to ascertain the value of each party's interest as a *saleable* interest.

This is, as I think, an error, and leads to this absurdity, that the value of each interest does not amount to the value of the whole.

It has, I understand, been properly proposed to apportion the difference between the two,—to take these two erroneous valuations, and then make an addition to each to make them just.

It appears that the lessor's interest being A, the tenant's B, the entirety is A and B + C, but to whom does the value C belong? It does not belong to any third party, but to the lessor and lessee; they alone are entitled to the whole estate.

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The error in these valuations consists in this, that they are founded upon an attempt to estimate the value to sell, whereas the thing to be ascertained is the *relative* values to the present holders if they continue *to hold*. Each party's estate is an unsaleable article, and will not sell for what it is worth to hold. Suppose a person to hold an estate upon his own life; it would not sell in the market for half what it is worth to him to retain. Would it not be unjust to make him surrender his estate at its marketable value?

It is well known that it is a common occurrence for those who wish to hold land to purchase at a rate which will produce less than three per cent., and to borrow two thirds of the purchase money upon mortgage at four or four and a half per cent. Now a person, so anxious to hold land, would think it very hard to be compelled to sell to the mortgagee at a marketable value; and what would the mortgagee think, if he, who wants only an investment for his money, was to be compelled to purchase the mortgagor's interest at a marketable price.

Again, suppose A and B to be tenants in common; if each share was sold separately in the market the two prices would not equal the value of the whole. The law allows either of these parties to change this inconvenient tenure; but how does it proceed? It does not compel A to sell his interest to B at a marketable value, but it partitions or apportions the estate itself between them according to their relative interests.

Apply this to the leases in question. The lessor and lessee are entitled to this estate; do not compel either to surrender his estate at a marketable value, but ascertain the *relative* interests.

I have already said that it is unfair to make a person sell an interest at a marketable price which he prefers to retain, but it is still more unjust to estimate his present interest at a marketable money price, and then, instead of giving him the money, to give him a slice of the thing he held before.

If you estimate the tenant's interest at the value to sell in the market, and compel him to take a new interest in the estate producing an income only equal to the interest of the money, it is obvious you do him a great injustice; and if you repeat this process you will quickly annihilate his interest.

I therefore proceed to estimate the *relative* values of the two as they now possess it, and as it is held in their hands.

To do this the interest of each must be calculated by tables at the *same per-centage*, and the whole fee must be considered as represented by the aggregate of the two, or, in other words, must be estimated at the same per-centage.

I will suppose the land in question to produce a clear annual sum of 100*l.* a year beyond the reserved rent and all other outgoings, and suppose the tenant to have renewed, and to have a clear twenty-one years term.

The thing to be ascertained is the *relative* values of the twenty-one years, and the reversion after the twenty-one years, in the 100*l.* a year.

My proposal is simply to do this by the four per cent. table, which gives this result:—

	£
The tenant's interest for twenty-one years amounts to	1,403
The lessor, or reversioner, to	1,097
Total	2,500

Then convert these into annuities at the same four per cent. rate:—

	£	*s.*	*d.*
The tenant's share will be	56	2	5
The lessor's	43	17	7
Total	100	0	0

I contend that this is a due apportionment, according to the *relative* values of the interests of the two parties in the 100*l.* to be *retained by them*.

I take *four per cent.*, because it is always considered a mere compensating rate for money. More than this is a profit rate; less than this is only taken for the pleasure of possessing that which does not, so far as money is concerned, give an adequate return. This is the rate of interest given by the Court of Chancery, where a person has been kept out of his money, as a compensation, and not as a profit.

It is a fair way of considering what I have proposed to look back and see the effect. The tenant has, in exchange for 100*l.* a year for twenty-one years, taken 56*l.* a year in perpetuity. If, instead of this, he had retained the 100*l.* a year, and annually invested 44*l.* a year out of it at four per cent., it would, at the end of twenty-one years, produce 1,400*l.*, which would, at four per cent., produce 56*l.* a year; so that he would be exactly in the same position as I propose to put him in at once.

The 1,400*l.*, at which the 100*l.* a year for twenty-one years is estimated for the above purpose, would only purchase a Government annuity for twenty-one years if the funds were as low as 75*l.* per cent.

I am aware that one party on the part of the tenants will say, that, instead of valuing the two interests at four per centum, I ought to value at five per centum, as that is nearer the marketable

marketable value of each interest. I think it would not be as equitable as my proposal The effect of this would be as follows, upon the principle of relative value:—

	£	s	d
The lessor's interest would be	718	0	0
The lessee's	1,282	0	0
Total	2,000	0	0

Upon the same principle the 100*l.* a year would be apportioned thus,—

	£	s.	d.
The lessor	35	18	0
The lessee	64	2	0
Total	100	0	0

Another party on the part of the lessors will say the value should be by the three per cent. table, because that is nearer the marketable value of the two when united into one; this would give the following result:—

	£	s.	d.
The lessor's interest would be	1,792	0	0
The lessee's	1,541*	0	0
Total	3,333	0	0

Or by way of annuity

	£	s.	d.
The lessor	53	15	0
The tenant	46	5	0
Total	100	0	0

For the reasons which induce me to take four per cent. as the fair and equitable rate for the purpose of partition, I of course think both these unfair. It is something in favour of my plan that it is between these two extremes; one takes the marketable value of the two separate interests, because they are separate, and the other the interest of the two when united, because they are to be converted into estates of that description. I think a middle rate correct. I think it preserves the relative values, whether they are spoken of as capital or income, to retain or to sell.

It will be said that the *marketable* value of the tenant's perpetual 56*l.* a year is more than the marketable value of the 100*l.* a year for twenty-one years. If it be so, I answer, the lessor's perpetual 44*l.* a year in possession is worth more than the reversion of 100*l.* a year after twenty-one years in the same or a greater proportion, because a present interest for twenty-one years is more saleable than a reversion.

I observe that these perpetual interests are estimated by some persons at twenty-eight years purchase, and by others at thirty years purchase; but I think this is erroneous. I think it will be proved that no one will give in the market either thirty or twenty-eight years purchase for an estate worth 100*l.* a year, subject to the certain payment of 44*l.* a year, nor for a rent-charge of 44*l.* a year, issuing out of an estate of 100*l.* a year. I think twenty-five years purchase a more likely price.

It must not be forgotten, that the *reserved rent* makes the tenant's position still worse. I have supposed 100*l.* a year to be divided, to the tenant 56*l.*, to the lessor 44*l.*; but the real position will be nearer this, the estate producing 105*l.*, the tenant will have 56*l.* and the lessor 44*l.* and 5*l.* the reserved rent; that is, 49*l.* out of 105*l.*

If what I have proposed fairly apportions the estate, it is equally applicable to all terms of years, and to all life interests. It has also the advantage of great simplicity, and may be understood by every man of business.

I have now endeavoured to show what are the relative positions of the two parties as they stand, without regard to what I will designate the *tenant's good will in the renewal* of his present lease.

It seems generally to be acknowledged that this is an interest deserving of consideration, but the nature or extent of this interest is not defined. No one seems to be able to see it in a substantial form, or to apply any principle to it.

There is, however, a principle acted upon in the Court of Chancery which will help to define it.

It is in the outset admitted that the lessors have a legal right to discontinue the renewal of the leases, if they can make it answer their purpose to do so.

But the question is, whether it is just that the Legislature should interfere between the lessor and lessee to assist either without doing full justice to both.

The jurisdiction of a court of equity has grown up because the principles of a court of law were found not to do full justice in certain cases. In such cases a court of equity interferes between two parties to enforce full justice being done.

But the court refuses to do this where the effect will be unreasonably severe, and therefore unjust to one party. In such a case the court leaves the parties to their legal rights.

I will instance a contract for the sale of an estate. A court of law can only give the purchaser the expenses he has incurred in consequence of the vendor refusing to perform

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the contract, a court of equity says, this is not full justice, and compels the vendor to do what he agreed to do, transfer the estate; and further, if the vendor has not the power to transfer all he agreed to sell, the purchaser may elect to take what he can get with a due reduction of price. But the Court refuses to do this if it cannot do it with even justice. Thus in a case where a client of mine, being tenant for life, agreed to sell an estate, and the trustees refused to carry it into effect, the purchaser asked to have the life estate conveyed to him, but the court refused, because this would not be even justice. It would be unjust to the vendor. The court left the parties to their legal rights, and refused to interfere.

In another similar case the court did interfere, because the purchaser had actually taken possession and built a house, and therefore the balance of justice was in his favour.

So, I say, Parliament, a higher court of equity, ought only to interfere in cases beyond the reach of the Court of Chancery, in such a manner as to do justice to both.

It is very easy to argue oneself into the opinion that the tenants having no legal right of renewal, and having no power to enforce a renewal in a court of equity, therefore have no claim beyond their existing leases; but leave such a person to his own reflection, and he will in his own mind feel that the interference of Parliament to enable the lessors to deprive the lessees of the benefit of renewal is not moral justice.

I therefore contend, that if Parliament interferes between the lessors and lessees to assist either, it should do *equity and moral justice* to both.

The hardships which would ensue from wholly disregarding this have been so frequently discussed, and are so well known, that it is unnecessary to enforce them. I will mention an *instance*, within my own knowledge, of an eldest son who has had settled upon him an estate held upon renewable leases, whereas his younger brother and sister have had property of other descriptions settled upon them.

Upon some property held by my own family upon a twenty-one years renewable lease, the tenants about eighty years ago, upon the faith of renewal, erected a street of houses, now standing, and still held under a similar lease. Mr. Nash was one of the persons who built, this being one of his first speculations. These houses were built upon the tenant's covenant with the under-tenant to renew to make up sixty years. The sixty years has expired, and the houses are now very old and require much repair, and this can only be effectually done by covenanting to renew beyond the existing lease if the lessor renews, and such under-leases are now existing.

I therefore contend, that some benefit ought to be given to the tenant in lieu of his right of renewal. I admit it is difficult to say what the amount of this should be. The first step towards doing so is to consider what has been the relative positions of the parties, and what they would continue to be if the renewal was an actual legal right.

A tenant having renewed so as to be possessed of a full term of twenty-one years, as above supposed, in order to produce at the end of each seven years a fine of 158*l.*, being a little above one and a half year's rent, would have to reserve 20*l.* a year, according to the four per cent. tables, or to take it at the highest, 25*l.* 6*s.* 8*d.* a year would produce 200*l.*; so that supposing the renewal to be perpetual upon payment of two years rent every seven years his interest in the estate would be 74*l.* 13*s.* 4*d.* a year, and the lessor's 25*l.* 6*s.* 8*d.*, or about three quarters and one quarter.

I have, then, if I am right, shown that, without taking into account the good-will of renewal, the lessor's share of the 100*l.* a year is 43*l.* 17*s.* 7*d.*, and supposing an absolute right of renewal as heretofore to exist or be continued, it would be 25*l.* 6*s.* 8*d.* It follows that something between these two is what ought to be fixed as the rent-charge to be given to the lessors. It is certainly difficult to say what ought to be the sum, but the Commissioners will have much evidence to assist them. I do not give any opinion upon this; but I would suggest that, whatever is agreed to, the way to carry out the whole is to fix the table by which the relative values are to be ascertained, including compensation for the good-will of renewal. Thus, if it should be decided that instead of 43*l.* 17*s.* 7*d.* a year the lessor ought to have 35*l.* 18*s.*, the partition will be made upon the five per cent. table instead of four per cent.

It will be observed that every calculation upon my plan is to be based upon the *annual value.* This must necessarily be the clear annual value as it reaches the pocket of the owner; because my calculation proceeds upon the actual sum received, and being calculated at a four per cent. table no allowance is made for losses of any kind. It is because these must vary in every case that I prefer a fixed table and plan to be applied to the clear income, the amount to be ascertained in each case, with due regard to the nature of the property and all the circumstances.

This annual value may either be taken by inquiry into the actual receipts for a given number of years past or by a new valuation. If by a new valuation, the principle should be laid down; and I think it should be ascertained by a valuer for each party, with power to appoint an umpire.

I have before alluded to the objections to this mode of commuting on account of the *change* which may take place *in the value of the* 1*l. sterling* as compared with land, and I think this ought to be provided against, either by means of the corn average or by periodical new valuations, with reference to the change in the value of money. I do not feel competent to say how this should be done, but I only mention it to show that I do not exclude the principle. If any plan of re-valuation should be adopted, it would of course only be after the lapse of a long period, and the increase or decrease of the rent-charge should not commence for some years after the valuation.

If

If the plan of a rent-charge is adopted it must be *apportionable*; this is indispensable, but at the same time objectionable on the part of the recipients. I would put some restriction upon it, thus; not allow less than 5*l.*, and upon a rent less than 10*l.* give an addition of five per cent. upon the rent.

In every plan adopted the application of the principle to different cases will necessarily be attended with very great difficulty. I consider it an useless labour to consider and discuss these until some plan is adopted, or at all events arranged for the purpose of adoption, except so far as is necessary to show the probable working of any general principle. With this view I will notice some *special cases.*

The first, however, is not one of a special kind, as it will apply to all cases. I mean the position of a *tenant, part of whose term has expired,* as compared with one who has a full twenty-one years lease. A tenant with only fourteen years instead of twenty-one would by the plan above proposed have to pay a rent-charge of 50*l.* a year instead of 43*l.* 17*s.* 7*d.* I do not think justice will be done to such a person unless he is allowed to make up his term of twenty-one years by paying a fine, to be estimated in proportion to the last fine paid.

I suppose the tenant to have seventeen years remaining of a twenty-one years lease, and to have paid on the last renewal a fine of 200*l.*, he would then have to pay to make up his twenty-one years term 77*l.* 12*s.*

I would therefore estimate his term at 1,403*l.* the same as the other, upon his paying the 77*l.* 12*s.* or deducting it from the 1,403*l.*, which would make the rent-charge payable by him 46*l.* 19*s.* 8*d.* a year, whereas if his seventeen years are valued it would give 1,217*l.*, and he would have to pay 51*l.* 6*s.* 5*d.* a year.

The plan of a rent-charge is impracticable if it amounts to a very large proportion of the whole.

I will now consider some of the special cases:—

First.—It will be said that even if my four per cent. table is applicable to farming land it is not *so to buildings.*

I may admit this without affecting the principle upon which I have adopted four per cent. The reason why such land requires to be considered specially is, not because the marketable value is lower but because the buildings are of a perishable nature, and therefore twenty-one years is of course a larger proportion of the value of the whole. I think this should be met by a special rule for ascertaining the annual value. It should be, not the present annual value, but a permanent annual value, such as might be obtained on a long repairing lease.

I would meet this and many other special cases by a series of rules for ascertaining the annual value applicable to different species of property.

Secondly.—The interest of *under-lessees and mortgagees* will have to be provided for. It would be useless to propose any plan till the question between the other parties is settled; but I think there will be less difficulty in dealing with their interests if the plan of a rent-charge is adopted than any other.

Thirdly.—As to *settled estates,* I think, for the reasons above stated, there will be no difficulty.

Fourthly.—The case of *mines* must be provided for. This, I think, may easily be disposed of, by giving the lessors a royalty in addition to the rent-charge. This must necessarily be moderate, or the mines will not be worked, and the lessors will get no benefit.

Fifthly.—With respect to *timber,* I think it might be provided for by a rule for estimating the annual value, or it may be valued and four per cent. added to the rent-charge. This will fall severely upon a tenant for life of a settled estate if the timber was of much value (which is not often the case), as he will have an increased rent-charge to pay for that which produces no profit to him. I think this may be guarded against by giving liberty for the tenant to delay purchasing it for a specified time. The lessor would lose nothing by the delay, as the value would be increasing, It would, I think, be for the interest of the tenant not to delay where he could avoid it.

Sixthly.—There is to be considered how *building ground* is to be dealt with, and this appears to me the most difficult, and I am not at present prepared to make any proposal.

1387. Have you any evidence you wish to give, arising from your own experience in the management of this description of property?—No. I do not think I have any beyond what is contained in the statement I have read.

1388. Are the houses to which you refer built upon leases of forty years or twenty-one years?—Twenty-one years. They are over Westminster Bridge, a small class of house, producing 20*l.* or 30*l.* a year each.

1389. Have you had much experience in dealing with property of this kind for clients?—I cannot say that I have had a great deal, although I have had some.

1390. Have you had an opportunity of knowing whether, generally speaking, parties who are coming to renew come with the money prepared?—I should say that in settled estates, at the present day, we seldom find people prepared with the money. I can mention one instance of a client of mine, who borrowed for the purpose of paying a fine upon a settled estate; the terms being, of course, under the settlement, that it should be paid off out of

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the rent. The second fine came round without the mortgage having been paid, and he had to borrow again the second fine. He was then obliged to find the means of paying off the first by making a mortgage upon his life interest in other estates, because he could not borrow upon the income of the leaseholds; under the power in the settlements the mortgagee would not have had a good title. In another case, where I have had to renew twice within a short period, the second life dropped, and he was obliged to renew before the former mortgage was paid off, though all the rents were applied for that purpose; and the whole of this income was therefore stopped for some three or four years to pay the expense of the fines and interest. It so happened that the lives that were in the lease were very old, and the fine very large. The consequence is, that the tenant for life was kept out of all his income for several years.

1391. Do not the expenses of the renewal fall entirely upon the lessee?—Yes.

1392. The expense of the lease forms a considerable item, does it not, in the renewal?—It is not much, compared with the estate, but still it is a very important expense.

1393. The expense is not in proportion to the value of the estate, is it?—No, it is not; I wish it did not come higher than I see stated in the evidence which has been given, as set forth in some of the reports. I do not know why these expenses should not be subject to the same rules that solicitors charge for other business.

1394. Would there be a difficulty in fixing an ad-valorem expense?—Yes, I think so; the trouble to the parties is the same in a small case as a large one. The fees upon Church leases, which are always short, would be very inconsiderable indeed if the charges were the same as solicitors charge in other cases. There is no ad-valorem stamp upon the fine. The expense would not be worth talking about if it were not the custom to charge stated fees, lease fees and register's fees; the surveyor's fee is often charged. I have been charged five guineas for a plan, and the explanation was, that the bishop had had a new survey of his estate made, and his surveyor was to be paid by having a fee for the plan upon every lease considerably more than the plan itself would cost.

1395. In reference to the plan which you have read, have you considered whether four per cent. is the right per-centage?—My principle is this: that four per cent. is a simple return for the money. If you buy a thing that is objectionable to hold you get a larger rate of interest; if you buy a thing that is desirable to hold you pay a smaller rate of interest. The value of money may be taken to be four per cent., independent of the nature of the thing, without profit; and therefore, if the estate in question, from being objectionable to hold, is such that a purchaser would expect to get ten per cent. for his money, still, if the object is to apportion it between two people interested in it, you want to know the relative value of their interests; it is immaterial to know the market value, you want to know the relative value of the term; and in my opinion, that is best obtained by taking money at the rate money is worth, independent of any other advantage or disadvantage.

1396. In the case of an estate of 100*l.* a year rent, which you value, at four per cent., at 2,500*l.*, if the two parties combine together might they not sell it for 3,000*l.*?—Possibly they could.

1397. After the transaction has taken place, will not the lessee get more than you intended him to get if he chooses to sell?—If so, the lessor will be equally benefited; but I do not think, after the new interest proposed, either would get more if he sold his interest separately from the other.

1398. Will not the lessor be left with his perpetual rent-charge of 43*l.*, which he certainly could not sell for more than twenty-five years purchase?—Surely that is of the two the better. I would rather give thirty years purchase for a fixed rent-charge than I would for an estate producing 100*l.* a year with a large rent-charge payable out of it.

1399. Taking simply for the moment the value of the rent-charge; the rent-charge has no value of a territorial character, has it?—It has not; and I have understood it to be the pretty general feeling that it is better for the Church not to have those territorial possessions, but to have a fixed income, and not to be the immediate masters of the estate. I think the tenants could get a better income if they changed places with the Church, and took such an interest as I proposed in the nature of a rent-charge, and left the Church with the land.

1400. Are you not giving the lessee an advantage, in this way, that you are going to confer upon him a perpetuity; and also going to give him something for the disappointment of an expectation of renewal; and when you are giving a man a perpetuity, to say that, you are also giving him something for the disappointment of an expectation of renewal? Is not that filling both pockets?—If you were to give him in perpetuity the same income that he now gets that would be so; but as I propose to give him 56*l.* instead of 80*l.* it is not so.

1401. Have you not made already an allowance to the lessee, by a previous part of the transaction, for the loss of expectation?—No; I have not. I consider I have taken the relative annual values. I have given them exactly the same proportion of value that they have now.

1402. Have you given the perpetuity to the tenant in the relative value which you think he now has in the estate?—I say that 80*l.* (not now being accurate in the figures) for twenty-one years is compensated by 56*l.* in perpetuity.

1403. Have

1403. Have you not made two allowances? First you have got the perpetuity, and then you are asking for something more?—No. Suppose this case: suppose a tenant now possessing 100*l.* a year for twenty-one years; if you were to give him a perpetuity of 1*l.* a year you would not say you had done him a benefit. I have taken, or intended to take, the exact medium, and, I conceive, neither benefit not disadvantage. It would be true, also, if you gave 100*l.* a year in perpetuity, it would be a clear gain. I have taken the point at which, according to my notion, you neither give benefit nor advantage.

1404. And if it terminated without any expectation of renewal?—Yes. If I had given the lessor 99*l.* out of the 100*l.*, and the tenant 1*l.* in perpetuity, you would say I had not done enough. There is a point between the 100*l.* and the 1*l.* which the tenant ought to have as an exact remuneration or substitute for his present interest independent of the goodwill of renewal, which is what I have endeavoured to get at.

1405. According to your view you suppose you have only given him exactly an equivalent?—Yes.

1406. Is your 100*l.* a year taken as a net 100*l.*, all expenses taken away?—Yes.

1407. How do you get at what that 100*l.* represents, varying as the property does from year to year, according to the tenant and according to the buildings?—That must necessarily be done by the very unsatisfactory means, the valuation of a surveyor, as is now done in fixing the fine.

1408. When a surveyor goes to an estate, and tells you that it is worth 100*l.* a year, he does not mean every year of your life, and that you will get 100*l.* for it; he says your rent roll will be 100*l.* a year, with a little allowance perhaps; but he does not make allowances for expenses and management and uncertainty of tenancy. How would you provide for that?—Surveyors that I have most confidence in do so. They take it in this way: they say that the rent of an estate to let will be 100*l.* a year, and then deduct fourteen per cent., or other per-centage, according to the nature of the property, from that, to cover all sorts of outgoings and losses which, from their experience of managing estates, they consider will meet them.

1409. Would not that vary exceedingly in all kinds of estates?—Yes, it would; and for this reason it is I leave that to be the only thing to be inquired into in each particular case, and that I would provide for in the Act of Parliament, by a series of rules applicable to different kinds of property. Invite every person to suggest rules, and then select such as are just and applicable to the different kinds and classes of estates as the rule which should guide the surveyors. There are several precedents for it. Sir Edward Sugden's Act in reference to contempts in the Court of Chancery lays down a series of rules by which the court is to be guided; and I think the Income Tax Act does the same thing.

1410. Do I understand that you would suppose the 100*l.* a year to be really the net annual sum which a man might fairly expect to have at his banker's every year?—Yes.

1411. Would not that be giving a man rather a larger interest in the possession of land than he usually has?—I think not; not more than the fair return for his money.

1412. Are not men contented, in regard to land, to receive a good deal less than that?—Men are content to receive two per cent.; but I do not think that that is a proper principle to proceed upon in apportioning the estate according to their relative interests.

1413. Are you going to give to the tenants of Church leases a better interest for their money in land than persons who purchase freeholds usually possess?—I certainly should take it at that rate in apportioning this estate, which he and others now possess, between him and such other persons; he now gets more than four per cent., sometimes seven per cent. I only want to get at the relative values. It seems to me not necessary to consider what his actual profit may be, if you get a means of striking the relative values between the two. I have, in the statement I have read, explained my reasons for taking four per cent. Some persons say you ought to take a higher per-centage, because it now produces a higher rate according to the market value; others say, take a low rate, because it will, when the tenure is altered, produce only three per cent. I say, whatever may be now, or will hereafter be, the market price, my plan ascertains the relative values of the interests of the two. We talk of Church property as compared with other estates, but it should always be borne in mind that it is to be subject to a heavy rent-charge, and also that the greater part of this property, as I think, consists of small plots of ground; at least not large estates.

1414. Are you not aware that there are large estates of this description in the north?—I am not aware of it; but no doubt there are such cases; but such do not form the majority.

1415. When you say small plots of ground, do you mean farms?—I mean that it is not like buying an estate; that there are very few Church leases that you could put up as an estate for a person to buy. It is more commonly held as investment property; and very frequently by an adjoining landowner, to whom it is a convenience to hold it as an addition to his own estate.

1416. Are you not aware that they consist sometimes of 500, 600, or 800 acres?—I am aware that is sometimes the case, but it is very often otherwise. This property is frequently in the middle of a gentleman's estate, and it would be more valuable to him than to another person. If the Church take that property to sell to another person it would get comparatively

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tively nothing for it, because it is in the centre of his estate; it is more valuable to him; and therefore I think you should take a medium between the two.

1417. Would your plan at all give to the Church the extra value occasionally arising from the peculiarity of the locality?—Only so far as it could be ascertained by the ascertaining the annual value; every circumstance would be taken into account in respect of that in the valuation.

1418. Then you do propose a periodical valuation?—I do not know whether a corn-rent or a periodical revaluation would answer the purpose best. My proposal for a periodical revaluation is not, however, in reference to the increased value from improvements, but to the variance in the value of money as compared to land.

1419. As a substitution for the corn-rent, do you mean?—Yes. If the conclusion were to be come to, that a revaluation to take in improvements is just, then I think that that ought to take place at distant periods, and to come into effect twenty years after you make the valuation, otherwise you stop the improvements, and would not get the benefit. There may be cases where it would be fair that the improvements should benefit both parties; but I can also imagine many cases where the estate would fall off in value. I do not wish to be understood as disregarding the benefit to be derived by the tenant from becoming the proprietor of the estate. This is *the* benefit which he is to acquire by the proposed change. If after considering my statement the Commissioners should, as the chairman has suggested, again require my attendance, I shall be prepared to explain my views as to this point more fully. I will also make some suggestions as to a gradual commutation, a subject to which my attention has only lately been called; and also as to the mode of dealing with building ground.

Friday, 4th May 1849.

W. Paynter, Esq.
Charles Pott, Esq.
Mr. J. Bingeman.

4th May 1849.

William Paynter Esq., Charles Pott Esq., and Mr. Jacob Bingeman called in.

The Chairman stated, That the Commissioners proposed to examine Mr. Paynter in the first instance, with regard to the facts as to the lessees and sub-lessees of the Bishop of Winchester; but that if anything occurred to Mr. Pott or Mr. Bingeman as necessary to be stated in the way of information in the course of that examination, it was the wish of the Commissioners that they would be pleased to state it.

William Paynter Esq. examined.

1420. Do you reside in London?—Yes; I reside in Belgrave Square.

1421. In what way are you connected with Church property?—I am lessee under the see of Winchester, and also under-lessee of other part of the property. The rental which I derive under the see of Winchester, as lessee and sub-lessee, is between 3,000*l.* and 4,000*l.* a year. My sub-lessees derive a much larger rental from it. I should say that mine is not much above one third.

Charles Pott Esq. examined.

1422. Where do you reside?—In Bridge Street, Southwark.

1423. How are you connected with this property?—I am lessee under the Bishop of Winchester.

Mr. Jacob Bingeman examined.

1424. Where do you reside?—Union Street in the Borough.

1425. How are you connected with this property?—As sub-lessee under Mr. Pott of the Bishop of Winchester's property.

William Paynter Esq., examination resumed.

1426. Have you any statement you wish to lay before the Commissioners?—I have drawn up a statement myself of a plan which I think would settle the question in reference to property of this description, which is house property. I should state that I am not only a lessee under the see of Winchester, but with regard to a certain property I am an under-lessee also. I have considerable interest as lessee and under-lessee. The suggestions which I have to offer refer to household property, because that happens to be the property in which I am myself interested, and I do not wish to interfere or to give opinions with regard to other classes of property.

1427. Considering ourselves as dealing with that particular description of property, will you proceed to state any plan you have to propose?—The plan in reference to Church leases adopted by the Ecclesiastical Commissioners appears to me extremely unjust, whether we regard the tenure of the leases which has existed since the time of Henry the Eighth, or the expenditure of the money of the lessees on the faith of such tenure. As respects the tenure by the 32 Hen. VIII. c. 28., the bishops were permitted to grant leases for twenty-one years or three lives, and by the 1 Eliz. c. 19., 13 Eliz. c. 10., and 18 Eliz. c. 11. they were disabled from making any leases except for twenty-one years or three lives. The consequence of these Acts of Parliament was, the custom which has continued ever since, for the bishop to add another life when one dropped, on receiving the payment of a fine on the renewal of the lease. Now it is true, that under this tenure, the lessee has no strict right in law or in the courts of equity to compel the renewal; but, with

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with few exceptions, it is quite unnecessary for him to have this legal right, as he is sufficiently protected without it, and for this obvious reason: the bishop has only his own life, and the lease is granted for three lives, and it is to the interest of the bishop to renew, by adding another life and receiving the fine, if calculated in a fair and reasonable manner, according to the particular species of property, whether of land, houses, or minerals. It must also be borne in mind that the lessees have, on the faith of this tenure, expended very large sums of money, and more especially in house property; and that the Church, although it has not expended money itself, has from time to time derived benefit from the outlay of the tenants, for the fines paid to the bishop are calculated on the full annual value of the property at the time the fines are paid. I am a lessee of household property under the see of Winchester, and the fine paid by me to the bishop in 1847, for putting in a new life, was calculated according to the seven per cent. table on the full annual value of the property, which, considering the inferior class of houses on the property, was, I believe, the full market value.

1428. Do we understand by that "the gross annual value"?—I mean the market value of the reversion, calculated on the full annual value for which the houses would let on the usual repairing leases. It is right to observe, that a variety of interests have arisen during the present tenure, which ought to be considered, if any change is made in it. I will point out, as an example, the interests of the sub-lessees. Under me, under-leases have from time to time been granted to them, with a covenant from their sub-lessor, that the under-leases should be renewed as often as the original lease is renewed by the bishop, and for the same rent, and exactly on the same terms as the sub-lessees would hold them. The average of the rent paid by these sub-lessees to me is probably about one third the rack rent they receive; but these sub-lessees covenant to pay to me respectively such proportion of the whole fine paid by me to the bishop as the annual value of their respective property bears to the annual value of the whole of the property comprised in the renewal to me by the bishop.

1429. Do the sub-lessees pay for the renewal?—Yes, the sub-lessees pay precisely in proportion to the property they hold; therefore, they pay me over the proportions of the fine, and I pay them over to the bishop.

1430. Do you say that they pay two thirds of the fine?—The sub-lessees pay the whole fine.

1431. Do you mean of that part of the property which you have let to them?—It is all let to them.

1432. And do you receive about a third of the rack rent?—Yes.

1433. And does their interest amount to two thirds of the rack rent?—Yes, that is so; but they pay the whole fine.

1434. Do you return them any thing for your third?—No; I return them nothing. Mine is a clear interest. They derive a great advantage from the circumstance of having my property at a small rental. They are the people, as well as the immediate lessees of the bishop, who have laid out money upon the property, and have raised it to its present value. When the bishop wants to have a particular fine he informs me what the fine is, and when the fine is arranged my sub-lessees are bound by their particular covenants to pay each of them a proportion of the fine demanded, all the law expenses, and everything, according to the value at the time, that is, the full value at the time, that their particular property bears to the whole.

1435. According to that it is a rule of three sum, is it not?—Yes. So that I am saved harmless as to the fine, with one or two exceptions, which are special cases.

1436. Is that the usual way of dealing with such property, or is it a peculiar arrangement of your own?—I do not think it is peculiar to me. I believe in a great many other cases it is so. The fact is, I can derive no possible benefit, because I am bound in perpetuity to receive only that rent.

1437. Do I understand that you get nothing but one third?—I get nothing but the one third; and if it goes on for ever I am bound each time to renew, receiving precisely the fixed rent; and they, if they like to improve their property, can make it five times the value.

1438. Is yours a fixed rent?—I have a fixed rent, and I am bound by my covenants. I state that I will renew to you on precisely the same terms, you paying the fine. If you do not think fit to pay the fine, you forfeit your particular interest, and I come into possession; but I am pretty sure of not coming into possession under those circumstances.

1439. Is this property of yours purchased or inherited?—I inherited it from my father.

1440. Do you know of any other locality where a like mode of dealing with the property prevails?—I am not acquainted sufficiently with other property of the same description to state. I do not know how that is.

1441. (*To Mr. Pott.*) Do you know of any other instance where a like mode of dealing with such property prevails?—I cannot say that I know of any other place where it does.

1442. Is your property of the same description as Mr. Paynter's?—Precisely so. Mr. Paynter's was originally part of the estate which my father, in conjunction with some other gentleman, bought in 1802. In 1819 it was divided. The parties from whom Mr. Paynter purchased bought a part, and my father and uncle retained the rest.

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Mr. Paynter. I would wish to observe, in reference to this, although I am not much practically acquainted with the subject, that in the Irish Temporalities Act there is a particular clause which looks to property let precisely in the same way as this; because it gives to the different sub-lessees the right of renewal upon paying the proportion of the increased rent, as they are bound to pay the increased fine to their sub-lessors; and I should infer from that, that property must in many other places have been dealt with in the same way. I cannot answer for a certainty about it, but I should think that ours was not a special case.

In my suggestions I go on to say, "By these means improvements are not checked; but "as the lessors or their predecessors have laid out large sums of money on the property "they are fully entitled to have their interests protected. I think, with regard to house "property, that the most desirable thing would be to enfranchise it altogether, by per- "mitting the lessees to purchase the reversion in fee, the value of which to be calculated "according to the same rate of interest as adopted by the bishop on the last renewal, and "the sum not to be paid in gross, but in the form of a perpetual annual rent-charge, cal- "culated according to the rate of interest of the funds at the time; the sub-lessees to "have similar rights in paying the same proportion of the rent-charges as they have "covenanted to pay of the fines."

1443. The sub-lessees to have the same right of purchasing on emancipating from their immediate landlords?—No; they have the same right in perpetuity. The sub-lessees are to be continued in precisely the same covenants as they are now; if they pay the lessees a proportion of the additional rent-charge which will be paid in lieu of the fines, the equity is precisely the same; it is unchanged.

1444. You do not propose to interfere with the present existing relationship between the original lessee and his under-lessee?—No; you are to preserve the equities precisely the same as now.

1445. You do not propose that the sub-lessees should have the same right with their immediate landlords?—My scheme is this: the immediate lessee has the right by this particular plan of obtaining the perpetuity of the property. He pays for the reversion in fee of the Church, not by a sum in gross, but by a rent-charge commencing immediately, which, in point of market value, will be equal to the sum in gross, and that is thrown over the whole of the property. By the present tenure the sub-lessees are bound to pay certain proportions of the fines from time to time as they occur; instead of paying their proportions of the fines they are to pay their proportions of the additional rent-charge, keeping all their interests precisely the same.

1446. Would not the original lessee remain with his rent, in your case, one third of the value, as he does now?—Yes; as he does now.

1447. Do I understand that the only party that the Church would deal with would be the immediate lessee of the Church, but then that an Act of Parliament would be necessary to protect the under-lessee against the lessee of the Church?—Yes; the under-lessees would then have an equity, and a very strong equity, because they have laid out very large sums of money. In truth, the interests of the sub-lessee are sometimes larger than the original lessee.

1448. Do you mean that they would have a legal right against the lessee?—Yes; that there must be a special clause in the Act to meet that.

1449. It would stand upon a different footing, would it not?—Yes. I proceed to state that "it is to be observed that by this arrangement the Church will have the benefit of the "improvements and buildings made and erected by the lessees."

1450. Will you state how?—In this kind of way: property is built over by houses; those houses are built by money of the particular lessees upon a certain tenure, on the faith of its continuance.

1451. Do you mean by the lessees or the sub-lessees?—Either the one or the other. In this particular property which is held by Mr. Pott and myself, I believe, since 1808, that 300,000*l.* has been laid out by the lessees and sub-lessees, and none by the Church; the Church has spent nothing; but if the reversion came for sale the Church would in fact benefit by that which has become valuable from the outlay of the lessees.

1452. She has now a vested interest in the reversion of that property, has she not?—Yes; she has now a vested interest in the reversion of that property.

1453. And you would give her the value of that reversion in a different shape, would you not?—Yes.

1454. But you would only do that upon the terms on which she now sells the reversion, the same rate of interest; is not that so?—I propose that it should be upon the last renewal, because I think that that gets rid of rather a complicated and difficult question. The last renewal, I really think, according to my notion, gives the full market value.

1455. I suppose, when you state that you would proceed upon the terms of the last renewal, that you take that merely as a foundation for what you are going to calculate you will have to give?—Yes; it is merely as a foundation, merely as a mode of calculation. It must not be supposed I mean only the same money is to be paid, but it is only according to the same rate of interest.

1456. You propose to renew in perpetuity instead of renewing for the additional life?—Yes; that is the principle.

1457. Then

1457. Then do you take the full value of the present improved state of the property?—Yes; you take the full value of the present improvements.

1458. But you do not take any future improvements, do you?—No; not any future improvements. But then I think the improvements that have already been made with regard to property built over are immense improvements. The improvements in this particular instance are probably twenty times the value of the property of the Church; that is to say, it has arisen to twenty times its value, probably from the outlay. I do not apprehend, with regard to house property, that is, property actually covered with houses, that precisely the same argument would attach that might be applied with regard to vacant land.

1459. Is the whole of this estate built over?—Yes, the whole of this estate is built over; and that is an important distinction which ought to be borne in mind.

1460. In your suggestions you are considering that you are dealing with property already covered with houses?—Yes; and I think there is a great distinction between vacant ground and property which has been so dealt with. It must be considered that we are now speaking with reference to ground actually built over, and that with the money of the lessees. In my suggestions I proceed to observe: "If this method is not approved, "then I propose, as an alternative, the following: to commute immediately the present "tenure of three lives and the surviving life into a term of ninety-nine years upon exactly "similar terms, regard being of course had to the greater extent of the term granted, and "according to the same rate of interest for money as the bishop has adopted on the "last renewal."

1461. That is to say, if the interest of the three lives in was only sixty years, you would still grant a lease for ninety-nine years, but then the difference would be paid for?—Yes, the difference between the two; the reversion would be paid for.

1462. Would that be according to the number of years that had to run?—Yes.

1463. If the value of the lives now existing was sixty years, you would pay what, according to the table, the thirty-nine years would be worth?—Yes; that is, what the reversion of that is worth.

1464. At present are the leases for sixty years?—No; I am speaking of the leases for three lives and the life of the longest liver. This is my meaning: if you commute a smaller interest for a larger one, that you give the difference of the value.

1465. Do you mean, having regard to the age of the lives?—Yes; and according to the same rate of interest as the bishop has adopted at the last renewal. "I propose also that "renewals for ninety-nine years shall be from time to time granted twenty-one years before "the expiration of each term, on similar terms as above;" that is, when it comes to within twenty-one years.

1466. Would you then have a revaluation?—Yes; a fresh valuation as to the value of the property which would be kept up in a vigorous state. The reason I propose ninety-nine years is, because people are induced to expend more money, and to build if it is vacant ground, and to make greater improvements.

1467. Is that the usual term which people expect when they build in London?—Yes, it is so.

1468. And is that the basis upon which you proceed?—Yes. I go on to say, "that the "sum payable for such commutation shall be paid, not in gross, but by a rent-charge com-"mencing directly and continuing during the term, to be calculated according to the rate "of interest of the funds at the time."

1469. Do you consider the substitution of a rent-charge for a gross sum in the way of fine important?—I think the substitution of a rent-charge for a gross sum very important as relates to the Church, because in that case you would have a regular constant annual income, which the Church would derive. And I should state, with regard to the property held by Mr. Pott and myself, that the bishop receives nothing from it, except when a life drops; but that if this plan was adopted immediately the see of Winchester would come into the receipt of between 2,000*l.* and 3,000*l.* a year.

1470. And do you think that would be more agreeable to the lessees and sub-lessees?—Yes; I do think it would.

1471. (*To Mr. Pott.*) What is your opinion with respect to that, Mr. Pott?—It certainly would be more agreeable to the sub-lessees who pay the fines, and who would be called upon to pay the additional rent-charge by way of commutation for the gross sum.

Mr. Paynter. I think it would be agreeable to the sub-lessees, coupled, however, with a certainty of renewal being granted; because, as a general proposition, I think if the property is encumbered with a particular rent-charge, that the number of years purchase of the property itself is not so great as property of an equal amount, if well secured, without a rent-charge.

1472. (*To Mr. Paynter.*) Do you think it would rather deteriorate the property?—Yes. It is a little disadvantage to the sub-lessees to have this perpetual rent-charge; but I think that little disadvantage would be compensated by the certainty of renewal. If, for instance, I had 800*l.* a year on property well secured, out of which I had to pay nothing, or 1,000*l.* out which I had to pay 200*l.*, I have no doubt that the market value of the 800*l.* without anything to pay would be rather more than that of the 1,000*l.* with 200*l.* to pay; I speak this just according to common sense, and not from experience.

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1473. Are you not speaking of houses now?—Yes.

1474. Would the same principle apply with regard to land, or would not people like to have a larger extent of land, for the territorial importance?—There is that element of difference certainly; but, as I have before stated, I limit my observations to house property.

1475. Nobody feels any particular pride or gratification in possessing more streets than he receives money for?—Perhaps that may be so; although the idea is rather pleasant, there is not that territorial importance attached to it which there is with regard to land. I proceed in my plan as follows: "Also that the sub-lessees should have the benefit from "time to time of the terms of ninety-nine years, by paying such proportion of the rent-"charge to their sub-lessors as by the covenants of their existing leases they are bound to "pay of the fines to the bishop." That preserves the equities between them exactly the same. I go on to say, "I would beg to observe that by the last plan the tenure would be "improved, the rights and interests of the Church, the lessees and sub-lessees would remain "uninjured, and a stimulus given to improvements; for unless long terms of years are "granted of house property it is always of an inferior description. The Church also, in "lieu of fines, will have a regular annual rental without trouble or expense, and also derive "an increased rent-charge when a subsequent renewal is granted, as the lessees will, with "an extended term and a certainty of renewal, lay out larger sums on the property."

1476. That applies to the alternative proposition, the last proposition?—Yes; I have said, "by this plan." I believe by both plans, but by this plan *also* I ought to say.

1477. Except the latter part, exclusively applies to that, does it not?—Yes; it does so.

1478. Have you any idea which plan of these two would be more acceptable to the sub-lessees?—I think the purchase of the fee would be the more acceptable.

1479. Would that be so as to the sub-lessees as well as the lessees?—Yes; to the lessees and sub-lessees. I should say about half the property of this 3,000*l.* or 4,000*l.* a year I hold as a lessee of the Church, and about an equal amount, perhaps rather more, I hold as the sub-lessee; but then in all my leases to the different under-lessees there is precisely the same covenant as in the case where I am a lessee; so sub-lessees may carry on their covenants with others. The fact is, of that property of which I am a sub-lessee, the rental I receive is about 2,000*l.* a year. Then I pay to the immediate lessee 655*l.* in one payment; the property for which I receive this rent of 2,000*l.* a year is probably to my sub-lessees of the value perhaps of 5,000*l.* or 6,000*l.* a year.

1480. So that there are many different relations in regard to this property?—Yes; that is so.

1481. Is it the sub-lessee who has built the house?—Yes; in many cases the sub-lessees have built the houses, and in others enlarged and improved them.

1482. Does the whole of that ground between Blackfriars bridge and London bridge belong to the Bishop of Winchester?—I am not exactly acquainted with that.

1483. (*Mr. Pott.*) Are you acquainted with that fact?—Not the whole, but a great portion does.

1484. The names of the streets would seem to imply that it did belong to that estate; there is Winchester Street, and so on?—The bishop has a very considerable estate there, the principal part of which Mr. Paynter and myself hold; but there is other property also.

Mr. Paynter. The great object which occurs to me about these tenures is this: the difficulty of arranging the thing, so that the existing interests should not be disturbed. The fact is, that the tenure has lasted such a length of time, that people have made it the subject of marriage settlements; and particular covenants, such as I have just mentioned, have been carried out; and I should suggest that the great object in any scheme will be not to do violence to any particular class of persons. My notion of the matter is that the best plan is to look at the facts as they are, without any great ingenuity, fairly in the face. The Church has a reversion; that is the fact. The Church having the reversion, and that being the fact, the next thing to consider is, if that reversion is to be bought up, it should be bought, I say, according to the last renewal. In my case the last renewal is, I believe, the market value. If the last fine was very much under the mark I do not say that that would be a just principle to go upon; but my belief is, if the matter were to be examined, it would be found that the bishop, generally speaking, received the actual market value upon the last renewal. If you were to ask the bishop's agents, I think you would find that they have actually had that money.

1485. Do you, in fact, think it would be as much as any private person could get, parting with the same reversionary interest?—I should say that it would be very nearly so indeed; although there may be a certain kind of inducement on the part of the bishop to promote improvements, because he derives a benefit afterwards from the outlay of the money; because whenever the fine is paid it is calculated upon all the improvements that have been made.

1486. Has he not less than any private party, because his interests terminate with his own life or the tenure in the see?—He takes the chance of having a fine during his life; and if considerable improvements are made, that fine is so much increased when it happens to fall in.

1487. When you talk about the market value, must it not be the full annual value on which the fine is calculated?—What I mean is this: the bishop sells a reversionary interest; that reversionary interest is in the form of another life, that is, a little addition

to

to the existing interest; it is a reversionary interest; and the bishop finds the full annual value of the property; he turns to his tables, and having fixed the rate of interest he looks to see how much the rental, say 1,000*l.* a year, is worth in present money, and he finds the value of that particular reversionary interest he has granted.

1488. In fact, do you believe that he gets what any common man of business would get, or very near it?—Very near it. If the terms are easy it is merely from the kind of inducement for persons to take the property, and to lay out money upon it; as it comes back to him in that particular way by the increased value.

1489. We understand you throughout as speaking of house property only?—Yes.

1490. Do you use the two terms as synonomous, market value and full annual value?—No.

1491. When you speak of the full annual value and market value, do you make any distinction?—I speak of the market value of the reversionary interest. The full annual value applies merely to the rental.

1492. Do you mean that he would get what any man of business would get, or thereabouts?—My impression is, that he gets for his reversionary interest very nearly what is the fair market value.

1493. When the fine comes to be paid, do you not naturally look to the tables yourself?—Yes, I do.

1494. Have you found, in point of fact, that there was not much difference between you?—The only distinction between myself and the bishop upon the fine has been this: according to what table are we to take it? There was a little discussion between us as to the particular value. I considered, certainly, that the property in that part, being of a very inferior description, that he should have taken it on the eight per cent. table. I should have preferred that he should have done that, although I have not much personal interest in the matter. The bishop seemed rather to think the six per cent. table was the table it would be desirable to put it at. To that I replied, that if the matter referred to houses in Grosvenor Street or Bond Street, it would be a fair table; but this was house property at a rack rent, and houses of an inferior description; that the people who received the rack rent had great trouble in collecting it, and that increased the risk. At last we arranged that seven per cent. was the table upon which the calculation was to proceed.

1495. What interest under such an arrangement have you in making a favourable bargain for your sub-lessees, as they pay whatever the fine is?—My interest is this: the kind of duty which a landlord has towards his tenants, in the first place; and there is also this, in addition, that if an exorbitant sum were demanded, some persons might throw up their leases; because, although I have spoken of the average value which I receive being about one third, that does not apply to all parts of the property. I am speaking of the average. Some would be very considerably more than that, and some would be less; and if I were to create a general feeling of dissatisfaction, and it could be said that Mr. Paynter had not done his duty towards the sub-lessees, that would induce a most unpleasant feeling towards myself, and I should feel that I had done an act of great injustice towards the sub-lessees.

1496. My question had reference to this: whether the principal lessee had any pecuniary interest in the terms which he made with the Church, seeing that the sub-lessee ought to pay the fine?—The immediate lessee would have no pecuniary interest if the under-lessee would agree to pay the fine; but if there was something so exorbitant put upon it that the under-lessees were to decline, and to say they would not pay the fine, then he would.

1497. Supposing they thought it would be better to forfeit, would their alternative be forfeiture?—Yes, I think it would be forfeiture; or, at all events, their interest would cease on the death of the old lives.

1498. Could you or not go to a court of equity about it?—I apprehend not.

1499. (*To Mr. Pott.*) What is your opinion of that, Mr. Pott?—It involves a forfeiture, I believe.

1500. If the sub-lessees were to refuse to pay, is it your opinion that it would involve a forfeiture?—Yes, certainly.

1501. Then anything that does not go so far as to induce them to forfeit, is not that which would alarm the chief-lessee for his rent?—Certainly not.

1502. (*To Mr. Paynter.*) When you speak of a forfeiture, do you mean of the interest which they now possess, or the right of renewal?—I lean rather to the belief it would be merely the forfeiture of the right of renewal; but I am not sure they would not incur the entire forfeiture of their interest.

1503. The consequence would be, would it not, that you would have to pay the fine yourself, instead of your sub-lessee?—Yes.

1504. And you would have a property of small value thrown upon your hands?—Yes; it would come to this; I should pay more than what was the proper sum to pay.

1505. The question is how the immediate lessee can be affected?—The only way the immediate lessee can be affected is this; if the sub-lessees think the fine exorbitant, they would have a right to say, "We will not give it;" then I should have to give the whole, and if I give the whole, I should give more than what the value of the reversion was.

1506. What

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1506. What hold have the sub-lessees through you, as to their interest?—I should say merely the good feeling generally speaking which ought to exist between a landlord and a tenant, except in these extreme cases to which I have referred. There are, however, I should say, two or three cases in which I, as sub-lessor, have covenanted to pay the proportion of the fine; but these are the exceptions.

1507. Practically, do you find such circumstances of exorbitant claims, as you have referred to, occurring?—It is very infrequent.

1508. Has seven per cent. been considered hitherto, as the interest allowed you?—It was the interest which I had allowed upon the last occasion; but Mr. Pott who has held the property in his family much longer than I have, will be able to speak in reference to what the fines were on former occasions, better than I can. I think probably the fines will be found to be less formerly.

1509. What is the date of your last renewal?—1847.

1510. When you made that renewal, had you any complaint made to you by the under-lessees of the rate of interest allowed?—Oh yes; they thought that I had not taken sufficient care of them, and that I ought to have got it much cheaper.

1511. Had you a higher rate of interest allowed upon the preceding one?—I have not had the property at any time when there was a fine, except upon the last occasion; no fine has been paid during the time my father had it. I rather incline to think the terms have been a little increased; but there is another thing, that people generally think that they pay a little too much.

1512. Is not that particularly so when the payments come to be at uncertain periods, when parties are not prepared for it, perhaps, at the time?—I cannot say that I have found that to be the case.

1513. Do you know whether the sub-lessees generally insure so as to provide the sum required?—I should think that the prudent ones would do so.

1514. But do you know the fact whether they do or not?—I know that some of them do; because I put in the life of one of my sons in the last renewal, and he has had the pleasure of being visited at Eton on different occasions to be looked at to see whether he is a good life. I assured some of the companies I would not have chosen him if I had not thought he was one of the strongest of my family; but he had to go through certain listenings at the chest, and so on; but he happens to be a particularly strong boy.

1515. Are the sub-lessees very numerous?—There are a good many of them. Some of the sub-lessees have about twenty houses; but I have heard some have 300.

1516. And some only one?—And some only one.

1517. Have I understood you correctly, that the fine is calculated upon the seven per cent. table and the full gross annual value?—I mean, not the gross annual value, but the full annual value the houses would fetch on the usual repairing leases.

1518. What is the value of the fee-simple of as many years purchase with the full gross annual value?—That is a question for a surveyor; I cannot say.

1519. Would it vary with the quality of the house?—It would vary with the quality of the house.

1520. And its state and condition?—Yes, certainly.

1521. And whether the neighbourhood was looking up or not?—Yes.

1522. (*To Mr. Pott.*) Can you state what the value of the fee-simple is of this same kind of property upon which you pay this fine?—I should think the value, taking the whole estate together on which the fine is collected, was from fourteen to fifteen years purchase. I know a great deal of property which has been sold from time to time has not realized as much as fourteen years purchase.

1523. (*To Mr. Paynter.*) When you have been speaking of the gross value, what do you include in the gross value?—The actual value which the property, if a bill were put up, would let for.

1524. Are rates and taxes included?—Rates and taxes are not included; it is what a person would pay, taking it with the ordinary tenant right.

1525. Is that with covenants to repair?—Yes.

1526. And having to hand over the property again in the same condition in which he received it?—Yes, I should say so.

1527. Is any of this property which you have been describing what would be called cottage property, consisting of very small houses?—Yes; some of them are very small houses.

Mr. Pott. I should say, upon this property there are a great many of what may be called cottages, and the rents of which are collected weekly.

1528. (*To Mr. Pott.*) When you speak of the number of years purchase this property would bring, do you mean the fee-simple, supposing it was out of all lease?—I mean, supposing it was fee-simple, the interest upon the lives does not sell for more than from ten to eleven years purchase; and, in fact, at this time it is unsaleable, from the very discussion which is at present going on, and has been so for these four or five years. Since the agitation of this particular question the property has become almost unsaleable.

1529. With regard to that land by the river, that has been built on for several hundred years, has it not?—Yes.

1530. It is not the case of persons taking land not built on in the way of speculation, and in letting it out to sub-lessees; that land must have been built on from time immemorial?—It must have been built on for a very long time; Shakespeare's Globe Theatre was there, and is still standing; and some of the buildings upon the banks of the river, I should say, have been erected at least two hundred years. So have many of those on the property in which Mr. Paynter and myself are interested: some of them must be at least a couple of hundred years old.

1531. Although built upon before, do you suppose that the buildings upon a vast amount of this property have been renewed?—Yes; the buildings certainly have been renewed, the tenements requiring constant renewal.

Mr. Paynter. I would wish to state that, I suppose, within the last forty years 300,000*l.* has been laid out on this property by the lessees.

1532. (*To Mr. Pott.*) Is Barclay's brewery situated upon this property?—Only a very small part of it.

1533. Are there not many large speculations, manufactories, and wharfs, and things of that kind on the property?—There are manufactories, not wharfs, as the property does not extend to the river side; with regard to Barclay's brewhouse, there is one particular warehouse they have built, which stands upon the property.

1534. (*To Mr. Paynter.*) Do you consider that a superior class of buildings would arise upon this property if a greater permanency were given to the tenure?—I think, generally speaking, great improvements would take place. I make a distinction between land which is already covered with houses and vacant land. It is a different thing to pull down houses for the purpose of building others, and to build upon vacant land; but as the old houses decayed and new houses were built, I have not the slightest doubt a superior class of houses would be built.

1535. (*To Mr. Pott.*) Is the land between this estate and the river freehold, or does it belong to the bishop, and leased out to other lessees?—A good part of the property on the river side belongs, I believe, to the bishop; but it is leased out in smaller portions than the estate I hold.

1536. Supposing this property was all in the hands of one set of lessees, there would be an access to the river, would there not?—No; I should say that would not be so, as some freehold intervenes between the property of which I speak and that belonging to the bishop on the bank of the river.

1537. But would there not be various points of access to the river?—Yes, I apprehend there would.

1538. Have you had improvements, in the way of widening streets, going on upon this property?—Yes, we have had some. The building of Southwark Bridge led to a considerable improvement; and from the year 1808, when a renewal took place, after an interval of forty-eight years (there was no renewal from 1760 to 1808),—immediately after the renewal in 1808 very considerable improvements took place in the property, and a great number of new buildings were erected. Another renewal took place in 1820, and the same spirit of improvement showed itself; there were a great many improvements then made. I suppose that from 1808 up to the present time there have not been less than 250 to 300, or perhaps 400 new houses built, old ones having been removed and new ones substituted, at an outlay, I should think, of at least 300,000*l.*

1539. In the improvements which have been going on, such as widening the streets, have purchases had to be made of this property for that purpose?—No, not generally. In the case of Southwark Bridge, the Act of Parliament made it compulsory upon the bishop and his lessees to sell.

1540. Then there were sales, were there?—Yes, there were sales then; but in other instances, where improvements have taken place in widening streets, I can hardly say with the concurrence, but without dissent on the part of the bishop, the lessees have given up the property; they have given up the site of the street for the purpose of the improvement.

1541. Do you mean, considering that their property would be benefited?—Yes. Then the bishop also has gained an advantage, because, when the fine accrues, he takes the improved value of the property as the basis.

1542. In the case where there was a purchase for the approaches of Southwark Bridge, was not some distribution made by Parliament or by a jury of the respective values of the property; that is, of the different interests of the lessees and the bishop?—Some apportionment took place, but I am not competent to say what. I was not the holder of the property at that time, as I am now.

1543. Have you any means of furnishing us with the mode of apportioning which then took place?—I think I could, by application to the surveyors who were employed there, and one of whom I believe is alive now.

I have not been able to procure this information in a precise form, (viz.) the exact apportionment of the sum paid, but have ascertained that the value of the lives was then considered to be the amount of the lessees interest, the reversion of the property *in its then state* the bishop's interest.

Mr. Paynter. I would beg to make an observation with reference to that particular point of apportionment, which I think is material. A bill was brought into the House of Commons

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mons for the express purpose of making two new streets. The two streets came through property belonging to me. I, as a lessee, considered that I had a particular right to compensation, if this was a compulsory sale, for what would have been the loss of the expectation of renewal. I knew perfectly well, that according to the strict law of the land, the value of that expectation, without a special clause was introduced into a particular Act of Parliament, could not be considered, and I therefore proposed the introduction of a particular clause to meet the particular interest. A particular discussion took place upon the subject. One committee, where the property was similarly circumstanced, took a view that I was entitled to it; another committee thought that I was not entitled to it; the consequence was, that upon the clauses of these two committees, we got the matter referred to the House of Commons; and the House of Commons, by a majority of about 187 to 31, declared in favour of the right of the tenant to compensation for the loss of the expectation, not, however, by these express terms, but practically to the same effect, by enacting, according to the best of my recollection, that the lessees interest should be calculated according to the price it would have fetched if the Act had not passed. It is evident that, if the Act passed, there would be no expectation of renewal; if it did not, there would be, as the old tenure remained.

1544. (*To Mr. Paynter.*) Do you not mean in favour of having that expectation considered?—Yes, as an element in the sale. That was in the Southwark Improvements Bill No. 2., which was discussed in Parliament in the year 1842.

1545. Did that ultimately pass into an Act?—It passed the Commons, and the Bill was not proceeded with further.

1546. What was the estimate you made of the compensation for that expectation?—I did not enter into that estimate; I merely left the matter so that it was to be an element in the consideration of the value.

1547. Do you mean that you left it to be decided by a survey?—We left that to be decided by a jury, or by private arrangement by surveyors, or whatever course was to be adopted.

1548. You mean to represent that you felt yourself entitled to have that element of value distinctly admitted?—Yes; distinctly admitted, and considered in the value.

1549. It never came exactly to a trial what that element of value, if admitted, would be worth, did it?—No; it did not come to a trial what its value was. People might take a different view of it. It was decided that it was to be an element of calculation according to the value of other property.

1550. Have you any data from legislation in your district which could lead us to a conclusion as to what value the expectation of renewal has been estimated to be worth?—No; but I should say that surveyors would be the persons best able to tell what they thought was the value of it.

1551. The question refers not to what surveyors might think to be the value, but what it has been admitted to be in any case of purchase and sale?—I do not think it has come forward in that kind of way, except under the old tenure. When a particular interest was sold, that particular interest was calculated according to the existing tenure of renewals; and I have no doubt it would be found that a consideration was given tantamount to this expectation of renewal on account of the existing tenure. When you alter the tenure and put a stop to it, then only arises the necessity to have a special enactment to meet it; otherwise the property goes into the market, and is sold for what it is worth under the existing tenure.

1552. Have you any instance where a lease of a given number of years has been sold without an expectation of renewal?—I do not know that there have been any cases, except it would be under this particular Act that Mr. Pott mentioned; otherwise, up to the present time, there has always been an expectation.

1553. Would not this afford some guide to the value: what a lease of twenty-one years in a similar district, or fourteen years when the property was held at a rack rent, and where there was no expectation of a renewal, had been sold for?—Yes; and that must be a case of constant occurrence.

1554. Supposing you had fourteen years in the one case and fourteen years in the other, similar property, comparing the price in the market, would you not in a certain degree get a measure of the particular values?—Yes, that might be so.

Mr. Pott examined.

1555. Can you give us any information on this point?—From inquiries I have made among surveyors as to the value, I will not say of the *right* but the *custom*, of renewal, I have been told, and told by competent surveyors, that it is from a year and a half to two years purchase.

1556. Is that the expectation?—Yes; that the expectation will sell in the market for one year and a half to two years purchase; that is, that the property will sell for so much more in the market than if there were no such expectation.

1557. Varying according to the expectation of renewal being nearer or distant?—Exactly so.

1558. Did

1558. Did you ever hear of parties paying legacy duty on the value of that expectation?—No, I never heard of it. I hold immediately under the bishop, and my property is considered as freehold, and therefore it is not subject to legacy duty. Leases for lives are considered freehold. Perhaps the Commissioners would like to know, as some guide, what the fines upon this property have been from time to time. I can speak of a large portion of it. In the year 1758 a life dropped, and the fine paid to the bishop was 1,500*l.*; that included the whole of the property held by Mr. Paynter and myself. In the year 1760 another life dropped, and the same fine was paid, 1,500*l.* No renewal took place from that time until the year 1808, although a life had dropped twenty years before; and, I believe, it was from what was considered an exorbitant fine having been demanded by the bishop that no renewal took place at that time. In 1802 my father became possessed of part of this property, in conjunction with others, and they immediately applied to the bishop for a renewal, and to be allowed to put in another life. The discussion continued from the year 1802 until the year 1808, six years; and the bishop then said, as I have been told, "I will "have one year's rack rent of the estate, and I will have twenty years interest upon it, "because you ought to have renewed twenty years ago;" and he received upon that occasion 14,000*l.*, within a fraction, for renewing only that part of the estate which I now hold, exclusive of Mr. Paynter's holding, which was not renewed at the same time.

1559. Did you put in one life or two lives?—One life.

1560. Had only one life dropped?—Only one life had dropped, and one life was put in. The estate was valued, I believe, at between 8,000*l.* and 9,000*l.* a year, and to that was added twenty years interest. Immediately after that, as I have stated before, considerable improvements took place on the estate; and in 1820 one of my brothers, who was a life on the estate, went into the army, and was sent to India, in consequence of which the lessees applied to the bishop to exchange his life, and the bishop not only exchanged his but both the other lives. It was, I believe, a suggestion of his own; he said, "If you are "about to exchange one you may as well exchange the three lives." That was the last year of Bishop North's life, and he then demanded a year and a quarter's rack rent for exchanging all the three lives, which I understood he would have asked for putting in one life if a death had occurred. The estate was then valued at 11,400*l.* a year, so that it had increased between the years 1808 and 1820 from between 8,000*l.* and 9,000*l.* to between 11,000*l.* and 12,000*l.* a year solely by the outlay of the tenants. I conceive at this time, if a life were to drop, and the estate were to be revalued, it would be valued considerably higher in consequence of the improvements which have taken place subsequently.

1561. Would not that be partly arising from the outlay, but in a great measure from the accruing value of property in that locality, owing to the increase of population and the business of the metropolis?—There has been some accruing value from those causes, but at the present time I am sorry to say the value of property in that district is considerably less than it used to be, and a house that used to let for from 60*l.* to 70*l.* a year does not let for more than 40*l.* to 50*l.*

Mr. Paynter. In reference to the particular part of this property held by me and my brother-in-law, two thirds of the rental of that particular part was, I think, 6,000*l.* or 7,000*l.* a year. I held another part, a third part, which would bring it all up—the rack rental of the property held by me only, which is not near so much as the property held by Mr. Pott, to, I should think, nearly 10,000*l.* a year.

Mr. Pott. I suppose the rack rental of the property we hold would be from 15,000*l.* to 16,000*l.* a year; so that if the reversion were to be sold now, the Church would derive all the advantage of that improvement, and the reversion would be calculated upon the 25,000*l.* year instead of what it had been before the improvements took place.

1562. (*To Mr. Pott.*) Was not the first fine you paid 1,500*l.*?—The two first fines I have mentioned paid by the then holders of the estate were 1,500*l.* each.

1563. Did that include both the properties?—Yes; and the subsequent fines to which I have referred, viz. in 1808 and 1820, only applied to the portions of the property which I hold.

1564. Do you suppose the first 1,500*l.* paid in the year 1758 was about a year's rental?—I have no ground for forming an opinion at all as to that. I do not think it was the practice at that time to calculate the fines upon the rental. It was customary to receive 1,000*l.* on the exchange of a life and 1,500*l.* on a death; I imagine this to be so. I have heard, but it is mere tradition, that the fine for putting in a life, if a life dropped, was 1,500*l.*; for exchanging a life was 1,000*l.* Therefore I do not think this to be an indication of the value of the property at that time.

1565. Having reference to the increased value of the property, you must proceed from 1808 to the present time?—Yes.

1566. House property is subject to depreciation as well as increase of value by lapse of time, is it not?—Certainly.

1567. Therefore a fixed rent-charge might be a burden to the sub-lessee, might it not, in process of time?—It might become a burden to the sub-lessee, no doubt; to the lessee or sub-lessee, if a depreciation took place.

1568. But would it not be to the sub-lessee in the first instance?—Yes, and if the lease were thrown up it would be so to the immediate lessee.

1569. Does

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1569. Does not the conversion of fresh land into building land always increase the value?—Yes.

1570. But in regard to land already built upon, there is no presumption of increase, is there?—There is no presumption of increase in such property as that of which I have been speaking. I should say it was more likely to decrease than increase in value.

1571. Does it not however appear that 300,000*l.* has been laid out upon this estate within a very moderate time, thus increasing its value?—I should think that 300,000*l.* has been laid out upon the property since 1808.

1572. Is not property of this description more likely to change its character, and to become more and more used for the purposes of trade?—This property is almost entirely occupied for the purposes of trade now.

1573. Is it not at all occupied as dwelling houses?—Very little indeed; the dwelling houses only of persons who carry on business in the immediate neighbourhood. I should think my brothers and my own dwelling house were almost the only two private houses on the estate; these, however, are dwellings connected with our business. There are a few upon Anchor Terrace and in Bridge Street, inhabited chiefly by the persons already alluded to, but they are very few compared with the extent of the estate.

1574. Land becomes more valuable, does it not, by being converted to purposes of trade?—I should think so. In some cases much more valuable; but in this instance the whole of the ground is covered, and I do not believe there is space to build a dozen houses upon the whole property which I hold except by pulling down those already standing.

1575. When dwelling houses are converted into warehouses or counting-houses generally it is an increase of value, is it not?—I doubt whether that would be the case with regard to this property.

1576. As compared with the original houses, were not those houses inhabited by persons of some fortune formerly?—Yes, they were, formerly. The Bishop of Winchester had a palace in Southwark; the property we hold is called the Winchester Park Estate. I believe the remains of the palace existed until within the last fifty years, There are remains of several old habitations on the estate, and two or three have been pulled down since 1808, which occupied a considerable site of ground. It was thought the ground could be turned to better advantage, they having ceased to be the dwellings of the class of persons who formerly occupied them.

1577. Is there much garden ground?—No, not now; none at all. There used to be, and we covenant by our lease to pay the bishop several (I believe eight) loads of hay, supposed to be the produce of the district; that is now commuted for a money payment of about 8*l.*

1578. Is any part of the property devoted to railway purposes?—No; none at all. There was an idea of bringing the South-western railroad through a part of it, two or three years ago, but I believe that scheme is abandoned.

1579. You have heard the paper read by Mr. Paynter, and put in; do you concur in the views that it contains?—I do entirely.

Mr. Bingeman examined.

1580. You, being a sub-lessee, and having heard what has passed, do you agree in the suggestions that have been given by Mr. Paynter?—We, as sub-lessees, entirely agree with Mr. Paynter's proposition. We only wish to have our rights preserved. We have laid out large sums of money. I have myself, within the last three years, built fifteen houses upon this property, which have cost me about 8,000*l.*

1581. Have you done that upon the faith of a renewal?—Yes; upon the expectation of a perpetual renewal, which Mr. Pott has covenanted to guarantee in case he has a renewal.

1582. Does the covenant run that Mr. Pott *must* give it, or that he must give it only in case he gets it himself?—*Mr. Pott.* Perhaps I had better answer that question. There is a special covenant in every lease that the immediate lessee "shall not be bound to renew "unless he shall think fit so to do," and for this reason, that the bishop's demand might be so exorbitant that he might have the leases thrown upon his hands.

1583. Do you mean that the covenant is, that the lessee shall not be bound to renew with the bishop unless he shall think fit so to do?—*Mr. Pott.* Yes.

1584. But that, if he does renew, the terms are fixed with the sub-lessee?—*Mr. Pott.* Yes, if he does renew, then he is bound to renew with the sub-lessee.

Mr. Paynter. I should wish to state in reference to my property, I have not quite so strong a covenant as that; but it comes to pretty much the same thing; the covenants in my lease are that whenever I do renew I am to grant a similar right to the under-lessee. It would be utterly impossible to have any other kind of covenant.

Mr. Pott. It is so much to the interest of the lessee that he should renew, that he is not likely to refuse unless the bishop is very exorbitant in his demands, and in that case he would run his life or lives against that of the bishop and wait for better terms from his successor in the see.

Mr. Boyes Thornton was called in, and

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The Chairman stated, that he understood Mr. Thornton, as a sub-lessee, wished to be present during the examination of Mr. Paynter, Mr. Pott, and Mr. Bingeman.

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1585. Are you a sub-lessee under Mr. Paynter and Mr. Pott of some of the Bishop of Winchester's property?—I am.

1586. Do you know the proposition which Mr. Paynter has laid before the Commissioners?—No, I do not.

Mr. Paynter. The proposition I have put in is, first the right of the lessee to purchase the fee, reserving to the sub-lessee similar rights in the event of the fee being purchased, they continuing their particular rent upon the same terms and paying a proportion of the rent-charge.

1587. Do you approve of that?—*Mr. Thornton.* Most assuredly.

Mr. Paynter. The other proposition is in the alternative for the lease for lives to be commuted to a lease of ninety-nine years, the under lessees paying the proportion of the rent-charge in the same way they pay their proportion of the fine ——

Mr. Thornton. Yes, I have understood that proposition.

Mr. Paynter. And twenty-one years before the expiration of each term of ninety-nine years to have a subsequent term of ninety-nine years, the calculation being made with reference to the value of property at the particular time, and according to the same principles.

1588. Do you agree in that view?—Most assuredly.

1589. (*To Mr. Thornton.*) Do you agree that that is fair and desirable for the sub-essees?—Yes, I think so. I have held property of this kind for nearly forty years. At one period my fine was only 300*l.*, latterly it has been 1,500*l.*, and I have laid out upon this property nearly 10,000*l.* and my under-tenants about 15,000*l.*, making altogether between 20,000*l.* and 25,000*l.*

1590. Is it the same property upon which you originally paid a fine of 300*l.* that the fine has now got up to 1,500*l.*?—1,500*l.* fine applies to that property which I hold under Mr. Paynter. The 25,000*l.* that has been laid out upon it extends over the whole, but the last fine of 1,500*l.* was only for the part which I held under Mr. Paynter.

1591. Were those from tenants under-tenants of yours?—The buildings have been erected partly by me and partly by my tenants; the fine is payable only on that part of the property which I hold under Mr. Paynter, and of this one of my tenants pays a portion and I pay the remainder.

1592. And sub-lessees?—A sub-lessee pays a small proportion.

1593. What security had your sub-lessee as against you, Mr. Thornton, which induced them to lay out that sum of money?—This: If Mr. Pott and Mr. Paynter renew, they renew to me, and I renew to my sub-lessees.

1594. Do you renew upon the same terms?—Yes; upon the same terms and the same covenants, they paying a proportion of the fine to me; but unfortunately some part of the premises were not let, and I have had to pay the fine, and indeed I have had to pay pretty nearly the whole of it, but that is my own look out. From the very first purchasing of this property I have always had this idea of it, that it was equal to a freehold estate to me, because I had no doubt it was the interest of the bishop always to renew, and likewise to the interest of the superior lessees always to renew to us, and, therefore, I laid out my money without any doubt upon it. I shall certainly be disappointed in my views if the tenure is not continued in perpetuity.

1595. Did you make a calculation in any outlay you made of the sort of fine you were likely to pay at certain intervals as part of the expenses which you were incurring?—I understood from the gentleman who granted me the lease in 1820 that the fine would be a year and a quarter's improved value.

1596. Whenever the life fell out?—Exactly so; but it was merely a verbal statement, it was no written agreement. Unfortunately I found to my cost that the fine crept up to two and three fifths of a year, and unfortunately I found likewise that they had taken the valuation very high indeed.

1597. When was the last fine?—About a year and a half ago.

Mr. Paynter. I can explain exactly how that arose. The bishop first made his calculation by his own surveyor of the annual rental, after he had done that he looked to the seven per cent. tables, and calculated what the value would be to put in a younger life, the other two lives being rather old ones; the fine would vary according to the age of the lives.

1598. (*To Mr. Paynter.*) Had you three lives put in?—No, only one.

1599. But the two being old the value of the interest of the tenant was much smaller than if they had been younger?—Yes; and also he went according to the seven per cent. tables.

Mr. Thornton. I should wish to state that the agitation of this question has had a very serious effect upon this property; two of my tenants offered property at the Auction Mart last week, and there was not a single bidder for it.

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1600. When anybody contemplates an outlay upon property of this kind, does he reckon to himself, as an additional expense, the possibility of a fine falling in upon the dropping of a life?—I should myself, speaking of myself, insure a sum of money to meet it. I should prudentially do it. I did not do it before because I thought the fine would be very small instead of to the extent it was.

1601. Did you think that it would be so small as not to be worth providing for in that way?—I did.

1602. Would not the prudent way be to reckon in the amount the value of the lives, to be ascertained by an insurance table, and to consider the sum to be given for that insurance as to be added to the outlay on the property?—Yes; a prudent man would do so, I think.

1603. Are there not a good many imprudent men in the world?—Yes; and I believe I have been one of those.

Mr. Pott. I should wish to state, that when the last renewal to which I have alluded took place there was some difficulty on the part of some of the sub-lessees as to paying their fines, and several of them requested afterwards that we would convert the fine into an increased rent; that is, that we would take upon ourselves to pay the fine, receiving from them an increased rent, which we did, and we insure the lives to the amount.

1604. (*To Mr. Pott.*) Must not this tenure, practically depending upon lives, be a very inconvenient one, to sub-lessees especially?—It is very inconvenient.

Mr. Paynter. I think it might be considerably improved.

Mr. Thornton. It prevents all improvements. A great number of substantial buildings would be erected if there was a certainty in the tenure.

1605. (*To Mr. Paynter.*) Do you mean long fixed terms of years?—Yes. Long fixed terms of years would bring forward in time gradually a better class of houses. In fact, if you go to an estate on one side of the river, and go through an estate on the other side of the river, you will see practically what a different class of houses has been built upon different tenures.

1606. Is there not something dependent upon the two sides of the river. Southwark will never be equal to London?—No, it will not; but there are in different parts of Surrey very different houses from those which are found upon church property.

Mr. Thornton. The subject of fines creates a great deal of dissatisfaction among the tenants; they would be better satisfied if there was no fine at all.

1607. Do you mean that they would prefer to pay a rent instead of a fine?—Yes. I should much prefer it. There is property which I hold under Mr. Pott, and to which I pay no fine; but I pay for that an additional ground-rent. I do pay a fine for property which I hold under Mr. Paynter.

1608. (*To Mr. Pott.*) What rate of interest on the fine do you charge as a rent?—That is rather complicated. Several of the tenants, indeed all the tenants that pay a fine pay such a proportion of the fine as a given sum, say 5*l.* or 10*l.*, bears to the sum of 1,170*l.* It may be asked, perhaps, why that was done? It was because the estate held by Mr. Paynter and myself was at one time valued at 11,700*l.* a year, and the tenants covenanted to pay such a proportion of the fine as 10*l.* or 20*l.* or 30*l.*, or, perhaps, 100*l.*, bears to 1,170*l.* When the fine or proportion of fine was commuted, we calculated that if the said sums of 10*l.*, 20*l.*, 30*l.*, or 100*l.* were laid by annually they would produce the amount which those tenants were respectively bound to pay of the fine, and we took the rent and laid it by, or effected insurances with it.

1609. (*To Mr. Paynter.*) Can you tell us, when you dealt with the bishop, and you appealed to the tables, what book of tables was taken?—That puzzles me. I do not know what tables there were. It was a table adopted by the bishop.

Mr. Pott. It is, I believe, Inwood's table that is generally used.

Mr. Paynter. I do not think Inwood goes to the seven per cent. table; but I think Mr. Morgan, the actuary, calculated what it was at seven per cent., and that was the way it was done.

1610. Then it was not calculated by any table, but by an actuary?—Yes; it was calculated by Mr. Morgan, the actuary.

1611. You do not know what table he used, do you, or whether he used any?—I do not know whether he used any.

1612. In fact, supposing his tables only go to six per cent., Mr. Morgan merely put another column for the seven per cent.?—Yes; that is so.

Mr. Pott. I have had calculations made by Mr. Morgan lately, both by the six and seven per cent. tables.

Mr. Paynter. The fact, to the best of my recollection, is, the bishop asked Mr. Morgan to calculate for him, and I asked him too, so that we both went to the same person for the purpose.

1613. Upon renewal, is the principal point at issue the real fair value of the property?—Yes.

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1614. It is not the number of years value, but what the fair annual value is?—Yes, what the fair annual value is; and then, according to the rate of interest which that fair annual value should be calculated at, which depends entirely upon the class of houses. An inferior class of property is constantly getting out of order, and therefore you must give the tenant a higher rate of interest for that.

1615. How was the annual value estimated; was it by the bishop's agents?—It was calculated by the bishop's agent; but then I desired my agent also to make me a report about it. I knew nothing about what the annual value was myself, and I found that there was not very much difference between them.

1616. Your consulting the surveyor was not by any arrangement with the bishop, was it?—No; not by any arrangement; it was done merely for my own satisfaction.

1617. Did the bishop claim the right of putting his own valuation as that which he would take?—Yes; and he would not have permitted me to do it. I merely did it for my own satisfaction.

Mr. Thornton. I should desire to observe that this property is very depressed lately, in consequence of large establishments being out of work,—Sir John Rennie's, and others,—which has caused a great depression; and the under-tenants feel it very much so, exceedingly so; and I had a great deal of property unlet in consequence of it.

1618. (*To Mr. Paynter.*) Through what number of claims of lesseeship and sub-lesseeship does this property generally go?—I am a lessee of this property. Mr. Thornton is my under-lessee; and Mr. Thornton has no sub-lessees on my property, except as occupiers.

1619. (*To Mr. Thornton.*) Your interest in the property depends upon the actual occupation of the houses?—Not entirely; because I have sub-lessees who hold from me at a ground-rent, and make a profit by the houses.

1620. Have you any property occupied as factories?—I have let three or four factories, but there are two factories at present not made use of, the parties having failed.

Mr. Pott. I should state that we have on the property we hold about 150 or 160 sub-lessees.

Mr. Paynter. I think I must have sixty or seventy tenants.

1621. (*To Mr. Paynter.*) Do you imagine your tenants are the landlords of the immediate occupiers?—In some cases they are occupiers themselves; but, generally speaking, they are landlords of occupiers.

Mr. Pott. With us, our immediate lessees are not generally the occupiers. They underlet; and sometimes underlet with a covenant that their tenant should pay a portion of the fine. That goes down three or four gradations.

Mr. Thornton. At one period I occupied all this property myself. If I had been in it now it would not have been worth, valued on the renewal, so high as it was valued, being divided into three occupations. I divided it when I left business into three different leases, and then they calculated these leases as worth considerably more per cent. for each party, according to his trade, although, substantially, the property was the same in extent.

Mr. Pott. I have been told by my father, that when in the year 1799 or 1800, shortly before he became possessed of this property, when he came to reside, and carry on his business in the neighbourhood, and the premises on which he was about to carry on his business, and which I now occupy, that one of the surveyors who were called in to value the premises (a gentleman who lived in Bedford Square) said "It is such a pigstye I will "not put any value upon it. I will not be a party to putting any value upon such "premises." Those premises were at that time assessed to the land tax, and the land tax was redeemed on the assessment of 100*l.* per annum. They are now assessed to the property tax at 1,100*l.* a year. This is a proof that there has been a good deal of money laid out upon them by the lessees. In the event of a change of tenure, such as has been suggested, the bishop, as reversioner, would derive a large benefit from the general outlay of the lessees and sub-lessees.

Mr. H. Sturmy.

Mr. Herbert Sturmy examined.

1622. Will you state the way in which you are connected with the property of the Bishop of Winchester?—I have lived in, and been a solicitor in the neighbourhood for a great many years. I am also solicitor to the parish, who are proprietors of a portion of the property which is holden, but where the leases are renewable every fourteen years, upon payment of a small fine. I am mortgagee myself in a case where the fine is only what 2*l.* is to 1,170*l.*; it is a mere fraction of a fine. I wish to state that property thus situated realizes in the sale a price almost equal to freehold, the right of renewal having been considered as a matter of course, and has been so dealt with, and no doubt has been entertained of it.

1623. What property is it that you are now referring to?—It is property which is held under the Messrs. Pott.

1624. Do you mean to state, that you and the persons through whom you claim have been the purchasers of an interest under Mr. Pott in some of this property for a small annual payment?—Yes; and that a great proportion of the property of Messrs. Pott is so situated, the same being leased in this way, at a ground-rent, and upon the renewal the party paying such a fine as 2*l.* or 7*l.* bears to a large sum, and the fine being so defined makes the property nearly equal to freehold, the fine being so small.

1625. Do

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1625. Do you mean, that that is upon the assumption that the renewal will take place?—Yes, it is so.

1626. Have you acted upon the supposition that the renewal will take place?—Yes, certainly, the renewal always having taken place for such a long series of years. There is a portion of property holden of the Bishop of Winchester which from being in the Borough of Southwark is leased for forty years, renewable every fourteen years, upon which a year's value I believe has been paid for the renewal. I should state that there are other portions holden of the Bishop of Rochester upon the same terms, and that another portion is also holden by the trustees of the market, to whom I am clerk, for a term of years; that is renewable by Act of Parliament.

1627. Is that renewable for ever?—Yes.

1628. Is that upon a re-valuation, or the same amount?—That is upon paying a year's value I believe upon the renewal.

1629. But do you take the year's value according to what it may be at the time of renewal?—Yes, but being a market it is always the same; that is regulated under our local Act.

1630. If by any chance the market was to increase to double its present value, would you pay double the present fine?—Yes, certainly.

1631. Has not the Church to that extent an interest in the increase of the value?—Yes, certainly; that is held for sixty years, and it must be renewed. The Act to which I refer as to the market is a local Act of the 30th of Geo. II. c. 31.

1632. Are you aware of the proposition that Mr. Paynter and Mr. Pott have been making to the Commissioners?—Yes, I am aware of it.

1633. Have you seen the papers of Mr. Paynter?—I have heard their contents, and I know that they contain a proposition as to the fine being turned into a certain rent-charge.

1634. Have you any observations to make upon that?—As to the first proposition they contain, the liberty to purchase at a rent-charge, I think we shall all be content with.

1635. Do you think that a substitution of the rent-charge would be a great improvement to the tenure?—Yes, certainly.

1636. But as to the other proposition, there being a lease for a longer period of years, what should you say to that?—As an alternative we should prefer the former very much. If it were to be ninety years, and then renewable for ninety, I do not know that we should object to that.

1637. Do you mean renewable for ninety years at the end of seventy years?—Yes; but we should very much prefer the former. I have no doubt that the lessees have stated the whole case most fairly, but it is right I should state that great part of the property which has been put upon this land has been put upon it by the sub-lessees; one of the sub-lessees has laid out a large sum of money upon an estate, which he bought sometime since, and that he would never have dreamt of doing if there had not been as he considered a right to renewal.

1638. Do you not mean if there had been an expectation of renewal?—Yes; the expectation of renewal. I should wish to state that the sub-lessees are a large and numerous body, and that they feel very anxious that their interests should be taken care of.

1639. Have you any calculation by you of the number of ultimate lessees connected with this property?—I do not think such a calculation is able to be made. I am the mortgagee of a sub-lessee, and under his lease there are other sub-lessees who have got their houses for ever, paying portions of the fine; there would be very great difficulty in arriving at the number of the sub-lessees.

1640. Should you say that it was a very great number over a small area comparatively?—Yes; certainly.

1641. Is the occupier generally the party to pay a portion of the fine?—Not in general; the sub-lessees are generally parties holding the property, who have then sub-leased or let it out. There is the case of Mr. Thornton and myself, where we have several under-leases where the parties pay a portion of the fine, and yet are themselves not the occupiers.

1642. But is it the fact that the immediate occupier seldom has anything to do with the fine?—Yes, that is so generally; but there are several cases where the sub-lessee does occupy.

1643. You are a mortgagee yourself, are you not?—Yes.

1644. How do you provide for the contingency of the lease not being renewed?—That is not provided for at all, because we have always looked upon it as a matter of certainty. Supposing a case of a mortgage to come before me, as being a solicitor in the neighbourhood, I provide in this way: if the party does not renew, that the mortgagee shall renew, charging the property for the fine and fees; that is if there is any fine to be paid.

1645. Do you not contemplate the case of a non-renewal at all?—No; we never have done so.

1646. Supposing for instance, that the superior lessee, that is the first lessee under the bishop, were to neglect to renew, what course would be taken in that case?—The immediate

diate lessees have such an interest in it, especially the Messieurs Pott, who hold very extensive premises themselves, that we rely upon their not forfeiting their own property. I have seen a great many mortgages, settlements, and other deeds dealing with this property, but such a thing as a nonrenewal was never contemplated in regard to any of them. I should never have dreamt of lending the money I lent, if I had not known that it was to be renewed.

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1647. In the meantime, as a lawyer, you are aware that that was a mere feeling of a moral possibility or a moral probability, and that you had no legal right to a renewal at all; is not that so?—A legal right, certainly, I know we could not say that there was.

1648. It is not the case, then, is it, that you have provided against the contingency of nonrenewal by some reserved fund out of the rents?—No, we have not.

1649. Might you not have made a reserved fund as a mortgagee, if you had been so minded, if you had looked forwards to a refusal or a neglect to renew, which, at the necessary time, would have repaid you?—The renewal has always been looked upon as a matter of so much certainty that no provision of that description has been thought of in any settlement or anything of that description which has come before me in regard to this property. I should further remark, that enormous sums have been laid out upon the property, conceiving, of course, that there would be a renewal. A large hop warehouse, holden on lease by the trustees of the market upon the water-side, was built, taking it as a matter of course that there would be a renewal.

1650. From your experience, do parties provide the sum requisite for renewal, or pay it as they can out of their common resources?—Formerly they did not make any provision, but latterly most of the clients for whom I have been concerned, who have been called upon recently to pay a large sum, have insured the lives of the cest que vies named in the leases.

1651. Is it the fact that a good many years ago they had not the same facility of providing a fund which they now have by means of insurance?—That is the case; and to my knowledge insurances have been effected by several clients of mine for that purpose.

1652. For that purpose must they not be in possession of the lives, and ages of the parties who are in the lease?—Yes, that is so.

1653. Must they not take the value of those three lives so that an insurance office may estimate them?—Yes, that is so.

1654. Is there anything you wish further to offer to the consideration of the Commissioners?—The sub-lessees have felt that their case has been fairly made out, and submitted to the Commissioners by Mr. Pott and Mr. Paynter; and they feel especially, that if that first proposition could be entertained, that that would meet their views, and that justice would be done. It is much more advantageous that the matter should be certain, than that they should be called upon to pay a fine, they do not know when.

1655. By insurance, however, do they not have to pay the profits of the insurance?—Yes, certainly; and that is rather heavy, because it is the first life of three.

1656. And which may by possibility be the youngest?—Yes.

Mr. Christopher Edmonds examined.

Mr. C. Edmonds.

1657. How are you connected with this property?—I am surveyor to the lessees, and also am myself a sub-lessee.

1658. You are aware we have been examining a good deal into the cases of leases under the Bishop of Winchester on the Surrey side of the river?—Yes.

1659. Are the circumstances which you come to state different from those which Mr. Pott, and Mr. Paynter, and Mr. Boyce Thornton had to state?—I think not. My evidence would be precisely the same. I should state, however, I have been surveyor for forty years to that property.

1660. On behalf of whom?—On behalf of Messrs. Pott, the former proprietors and the present proprietors.

1661. Have you any acquaintance with the comparative rate at which sales take place of property of the same nature, which has the expectation of renewal, and that which would be held under a common landlord?—There would be a very material difference in offering to sell that which had no expectation of renewal. If an estate for three lives only were to be offered for sale it would be scarcely marketable, or at all events it would sell at a low price; but with an expectation of renewal, which we have always supposed to amount to a certainty, the difference between that and a freehold would be very little. I have a sub-lease for three lives from Messrs. Pott, they paying the fine for me. I hold it in perpetuity, I paying an extra rent in lieu of fine, and have done so for many years. It is precisely the

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same case, as, I believe, you have heard from others; but my leases would be scarcely marketable if it were not for the expectation of renewal.

1662. Does the expectation of renewal add to the value?—Very much.

1663. Would the certainty of renewal add a great deal more?—A great deal more.

1664. What is the fee-simple, do you suppose, generally, of house property on the Winchester Park Estate?—I should think from fourteen to fifteen years purchase; that is, with the expectation of renewal.

1665. What would be the fee-simple value of such a property without reference to renewal?—The property on the Winchester Park estate is very variable; some consists of little courts and alleys, while others are good houses in better situations.

1666. What would be the value of inferior property first?—The fee simple of the inferior property, if held in perpetuity, would be little more than fifteen years purchase.

1667. What would be the highest value of the fee for any of that property?—I should think sixteen years purchase.

1668. Would sixteen years purchase be the highest?—I think so, or sixteen years and a half, at the utmost.

1669. And what would be the lowest?—I should think there would be from three to four years difference. Some of it is very inferior property.

1670. If that land was leased with a certainty of renewal, and was built over, and great improvement made, the fee-simple value would become greater, would it not?—Yes. The land is already built over.

1671. Do you think, from your acquaintance with sub-lessees, that they would prefer their tenure being converted into that of a fixed rent-charge, rather than having a fine coming at uncertain intervals?—I think they would prefer that.

1672. Do they generally prepare for the fine when it comes, or are they generally unprepared?—A good many are unprepared.

1673. It is the practice, in some cases, to convert a fine into an increased rent, is it not?—Yes; that is the case with myself and many others.

1674. Can you inform us of the terms of that arrangement?—Generally proportioned; they generally take a certain proportion, but it varies, as may be agreed upon. I had one lease at 60*l.*, which was increased to 70*l.*; that is, the rent would have been 60*l.*, but not paying the fine, the rent was increased to 70*l.* upon that lease. Another I took upon the same principle, not saying anything about what the rent would be if subject to fine, but I took it subject to the landlord paying the fine, and so renewing on for ever, or as long as the bishop's lessees renewed themselves, without paying any fine; that was rather a heavy rent. I think I was rather hasty in making the offer I did. I think I should have had it for a little less. I thought so afterwards; and subsequently another lease was granted to me at a considerably reduced rent. All the leases I hold are building leases.

1675. Do you know what you got it for afterwards?—I should think for about two thirds, or not much more than half. It was my own offer; it was one of the first taken, and I made the offer myself, without inquiring, and it was directly accepted.

1676. Do you believe it would be a great advantage to convert leases for lives into leases for terms certain?—A very great advantage indeed; and very great improvements, I think, would be made in consequence. The improvement has been very great on the Winchester property certainly, since three lives have been put into the estate. Formerly, when there were two lives, and those old lives, and it had not been renewed for many years, it was in a very bad state indeed; all old houses. Since the two last renewals great improvements have been made. On Messrs. Pott's part I make alone rather more than 1,100 houses, and nearly 800 of those have been rebuilt since the accustomed renewals took place.

1677. What do you mean by the "accustomed renewal"?—There were only two old lives upon it when Messrs. Pott purchased the estate.

1678. Do you mean since the new lives were put in?—Yes.

1679. So that a longer tenure was secured?—Yes.

1680. And have 800 out of the 1,100 been built since that time?—There have been 1,100 in the whole built, and about 800 have been built since that time, in consequence of the expectancy that it would always continue to be renewed, and that on moderate terms.

1681. As these new lives which were put in probably were all good lives, and pretty nearly the same age, a few years hence, when they all become old lives together, there being no power now of exchange of lives, will not the tenure of that property become very uncertain?—It will.

1682. Is it not probable that the estate then would be subject to very considerable dilapidations?—Yes, I think so. When the lives were first put in, they did exchange, which was considered a great benefit. There is another property besides this, which I have surveyed, the Carlisle estate, which I surveyed for the tenants and Bishop of Carlisle.

1683. What

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1683. What do you mean by "the Carlisle estate"?—Held under the Bishop of Carlisle.

1684. Where is that property?—At Lambeth. There was an agreement made by an Act of Parliament between the bishop and Mr. Williams; instead of twenty-one years leases (when no improvement could be made) another arrangement was come to; and as soon as they agreed, they got an Act of Parliament authorizing leases to be granted for ninety-nine years, renewable every fifty years; and I think the bishop took of the future rents eleven twenty-fifths and Mr. Williams fourteen twenty-fifths, something in that way; when that was completed we let the ground immediately, and I suppose very likely fifty or sixty houses were built immediately.

1685. Will you state what that Act was?—7 & 8 Geo. IV. "An Act to enable the Lord "Bishop of Carlisle to grant leases, with power of renewal, of hereditaments in the parish "of Lambeth, in the county of Surrey, and to authorize the granting of sub-leases for "building thereon, and for other purposes."

1686. Do you happen to know of any instance within your knowledge in Southwark, in purchases for improvement of any kind, in which the relative interest of the lessor and the lessee have been estimated?—No, I have not; I do not remember any.

1687. Was there any as to the Southwark Bridge approaches?—There have been purchases, but I do not know the principle on which they were made. I also hold myself a small estate in Wiltshire, that is held for three lives and a widowhood. This is house, land, and farm buildings.

1688. Copyhold?—Yes, the same tenure. We get a widow added to the lives, which is of great advantage. We look on that as more valuable; we consider that as worth eighteen or nineteen years purchase. And if there was a certain tenure, the houses would be very much improved; the houses are all old and dilapidated. Nobody will make improvements in the way of new buildings. If that could be converted into a certain tenure, it would be very much improved.

Thursday 10*th May* 1849.

C. H. Elsley, Esq.

10th May 1849.

Charles Heneage Elsley Esq. examined.

1689. Where do you reside?—At York.

1690. We have been turning to your evidence given upon a former occasion, and we wish to know if there is anything you wish to add, either as to facts or suggestions, as the Commissioners are desirous rather of taking new matter, having before them the evidence taken upon the inquiry on Church leases in 1837?—I have not much to add to the evidence which I gave on that occasion, but what I have to state I will state shortly. I may state that about the year 1720 my ancestor, the Reverend William Elsley, purchased a place called Mount St. John, a leasehold estate for lives; and he built the house there, made the plantations, and planted the wood, which is now about 130 years old. He built a very handsome house, which has been added to by other successors of the name of Elsley. My father added to it, and I have added to it myself; I do not reside there now, because I find it convenient to reside in York for several reasons. I let it to a tenant. It is a very good house; and we have added to it and treated it as if it were our own, relying upon the confidence we have always had of renewing upon the usual terms. We have had no difficulty in making the renewals; and what I wish to say is, that I am perfectly satisfied with the present method of dealing with leasehold property, and that I wish it may be continued. I hold the property under the Archbishop of York. When I renew with the archbishop I go to his agent; we agree upon the annual value, and then he calculates the value of the existing lease by Inwood's tables, according to the five per cent. column; then he calculates the value of a lease with a life added, and the difference is the fine. The only difficulty is in agreeing upon the annual value. I have found the archbishop's agent very reasonable and communicative. He sometimes has taken the value from my own land agent, and sometimes he has taken it from the value which the archbishop has had made by his own valuer, or he looks over it himself; but we have always come to reasonable terms, and I have no reason at all to complain. My wish is that, if possible, things should be left as they are. I have about 1,300 acres of leasehold under several leases.

1691. In your former evidence did you not propose some plan of redemption?—I think I did; and that was in accordance with my Lord Monteagle's plan, and I wrote a pamphlet upon it.

1692. Have you anything to add as to the description you gave of what you thought would be the proper way of proceeding in case a commutation took place?—Upon consideration I think the fairest plan would be, that the lessee should have the right of renewal, or rather a perpetuity in the property, secured to him, and that he should pay a fixed sum, every year as a rent-charge upon his land say a fifth, or whatever it may be.

1693. Do

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1693. Do you think the conversion of the fine into a rent-charge, upon proper terms, would be the most convenient method?—It would be most convenient to myself. I do not wish to enfranchise; I should find it very inconvenient to raise the money at a short notice to enfranchise; and I do not wish to enfranchise. All I wish for is, that I may have secured to me the right of renewal upon reasonable terms, or if there was a certain rent-charge upon it, that there should be no fine. What I wish for is certainty. I have been rather in a state of uncertainty about this kind of property for several years, and I should say, that if things could remain as they have been, I should be quite satisfied with them.

1694. Do I understand from you that you would be content that the whole of what would be otherwise a fine should be turned into a rent-charge?—Yes, certainly, upon an equitable foundation, which is more a subject for an actuary to calculate. I should, in a rough way, say one fifth.

1695. From your experience, should you consider, generally, that lessees would be glad to convert fines into a rent-charge?—I think they would. I think all prudent lessees would; and for this reason: when I put a new life in I insure the life, and I pay the premiums upon that life; I should then pay an annual sum to the bishop instead of paying it to the insurance companies; so that as far as I am concerned it would be about as broad as it is long.

1696. You would economise, would you not, the profit of the insurance companies?—Yes, I presume I should.

1697. Was the improved value put upon the property by buildings raised by yourself or your predecessors taken into consideration upon your renewal?—No; I understood it was not. The late Archbishop of York (and I dare say the present one will do the same, for he has the same agent,) never did take that into account. When we renewed the lease of Mount St. John we renewed it upon the rental of the land as farming land, without taking into consideration the buildings at all; we never have done so.

1698. And have the buildings never been taken into consideration in the renewals?—I believe not.

1699. How long is it since the house was built?—It was built about the year 1720.

1700. And there have been subsequent improvements, I think you say, to that property?—Yes. I may also mention, that about two years ago I bought other leasehold property adjoining Mount St. John, held under the archbishop, to the amount of about 7,000*l.*, in order that I might have the whole township. It now belongs to me, under the archbishop; and I consulted a gentleman who is in the archbishop's office, who is principally engaged upon the leaseholds, and who is perfectly competent to make calculations, and more able to do so than I am. He advised me to buy, and he advised me what price to give; and he said that according to his calculations I should make about four per cent. for my money, supposing things continued as they were; that is, supposing the future fines would be regulated upon the same conditions and the same basis that the former fines had been; and I, trusting to that, laid out my money upon it.

1701. Do you know how many years purchase you gave?—No, I cannot say how many years purchase I gave, because that depends upon the existing lives.

1702. It was so that you should make it four per cent.?—It was a long calculation; there was taken into consideration the annual payments that I should have to pay, and a variety of other things. The gentleman I have referred to who made that calculation was better able to understand it than I am. I believe he very honestly told me what he thought; which was, that it was a good investment; that was, supposing in future I should be able to renew as usual.

1703. At the same time you made the purchase there was no doubt about that, I suppose?—At that time there was no doubt at all about it; and upon the faith of that I purchased.

1704. How long ago is that?—About two years ago; that is, in 1846, I bargained for it, and completed, perhaps, in 1847. I wish to impress upon the Commissioners that I consider I have a customary right to renew upon certain terms; that all my ancestors have acted upon that, and have considered that they had an equitable right to renew; that they made improvements, and erected buildings, and managed the land accordingly. I should wish to state also, that Gregory Elsley in 1780 devised Mount St. John to trustees, in trust to my father for life, with remainder to his first and other sons in tail, as far as leasehold property could be entailed, and directed that his trustees should have power to raise money to pay the usual and accustomed fines.

1705. Have the improvements on the land or the improvements on the farm buildings been taken into consideration from time to time?—They would, no doubt, as far as this: a farm would let for more with a good farmstead than it would with a bad one; but the archbishop's agents have been very fair in respect to the value of it. In letting a farm in this part of Yorkshire they do not consider the farmstead, but they generally give the same. If there is a bad farmstead when the tenants have got to the farm they come to the landlord, and ask him to repair it, or to build a new one. I should wish to mention another circumstance. Although I have no plan to propose as to the wood, I wish to suggest,

suggest, that there is a great deal of ornamental wood about Mount St. John, and that that place would be destroyed, and of no value at all as a residence, if the timber was cut down.

1706. Who has planted that?—The ornamental timber about the house has been planted by my ancestors. I know that; but there are some wild parts in which the wood appears to have grown spontaneously. The archbishop in all my leases, for I have several, grants to his tenants the right of estovers, which is the right of wood for housebote, hedgebote, and ploughbote. I have no plan to suggest, in case the lessees were to pay a rent-charge, as to how that could be regulated in respect of the wood; but I think it would not be fair for the lessees to pay the full price for the wood, because they are entitled now to estovers.

1707. What could they do with respect to the wood under the right of estover?—Whenever I want repairs of gates or farmbuildings I apply to the archbishop's agent, who sends his bailiff over with my woodman, and they set out such wood as they think necessary, as long as there is wood upon the estate.

1708. Supposing that a plan was devised or suggested for giving the wood to the lessee; a person having such a covenant as that which you have mentioned with the archbishop ought to pay less than a person having no such covenant, ought he not?—Certainly.

1709. Do you think that that should be taken into account?—Yes, I do.

1710. Do you mean that the gross value should be first taken, and then allow certain subtractions, such as I have mentioned?—Yes; subtractions on account of the right to estovers; and I should say, that I think at common law the lessees are entitled to estovers. The Archbishop of York, about forty years ago, had a fall of wood, and he marked some ornamental trees about Mount St. John, which my father thought very ornamental; and he bought them standing, and paid for them. When I came into possession I thought it was advisable to make sure of the trees, and I cut them down and sold them, with the knowledge of the archbishop. I have heard that, in the neighbourhood of Southampton, Lord A——— had a place where he had some fine trees. He saw a man with an axe, going to cut them down. When he inquired who had ordered him to do so, he said, the prebendary had ordered them to be cut down; and he bought them. A few years afterwards he saw another man going to cut them down, and upon inquiring of the man who had sent him, he said the prebendary had sent him; and when he went to inquire further about it, he found it was a new prebendary, who said, "I have nothing to do with any bargain you made with "my predecessor;" and the result was, that he bought the trees three or four times over. I thought from this that I might have to buy my trees three or four times over, and so I cut them down. I do not know whether I have sufficiently stated that my wish is that things should remain as they are, and that I should have secured to me an equitable right of renewal; and that I should be obliged to you if you would only be so kind as to leave well alone.

1711. Is the property with which you have been concerned all upon life leases?—Yes; leaseholds for lives, in the county of York. There is another point to which I should wish to refer. I am a trustee for certain collieries, under the Bishop of Durham, and they are held by lease for twenty-one years, renewable every seven years. I pay a fine, which is, I believe, estimated at a year and a half; but I have a great deal of difficulty about it. I have always thought they estimated the annual value too high; but I cannot tell the precise terms.

1712. In reference to your former evidence, it appears you stated, when you had renewed your leases you thought you had done so too high, but that you could not deny you had made a very fair rent of it always?—Yes; that is so.

1713. Is there any tentale rent in the property you have just referred to?—Yes, there is a tentale rent, and there is an allowance for short workings, so that the tentale has not come into operation yet.

1714. Is there one in the lease?—Yes.

1715. A reservation of it?—Yes.

1716. Are you an advocate for a scheme which shall alter leases for lives into leases for years?—My only scheme is, to pay a rent-charge, which I am very willing to leave to an actuary or to some competent person to calculate, as it would be a mere matter of calculation what that should be; and most probably it would vary in different leases according to the value of the lives.

1717. Should you think it of advantage, or otherwise, to have your lives converted into terms of years?—Is it meant, by that question, converted into terms of years renewable?

1718. Yes.—No; certainly not.

1719. Do you mean that you would rather have the lives in?—I would rather have the lives in, for I am a life myself; and, of course, when I am dead I shall not have to renew. I shall be out of that scrape.

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THOMAS HENRY FABER Esq. and JOHN GREGSON Esq. called in.

The Chairman stated, That understanding that Mr. Faber and Mr. Gregson had come from the same district, the Commissioners desired, in the first instance, to examine Mr. Faber, and requested Mr. Gregson to add anything he thought necessary in the course of the examination.

MR. FABER examined.

1720. WHERE do you reside?—At Stockton-on-Tees.

1721. Have you drawn up a paper embodying your views upon the subject on which this Commission is engaged?—I have; from which I will proceed to state what my impressions are upon this subject. I am a practising solicitor at Stockton-upon-Tees in the county of Durham; I have been so since 1825. I am town clerk of the borough. My father was the private secretary of the late Bishops Barrington and Van Mildert, and had for nearly twenty years the management of the renewals of leases of the see of Durham. As a solicitor, and knowing something of the manner in which business was transacted in my late father's office, I have had the opportunity of becoming pretty accurately acquainted with the mode and manner of the renewal of leases in the county of Durham, both under the Bishop and under the Dean and Chapter of Durham. We have at Stockton estates belonging to the Bishop of Durham which are not under lease, but are let at rack rent; and we also have very large estates in that neighbourhood which are let under leases.

1722. What are the rack rent estates to which you are referring; are they land, or what description of property?—The evidence which I wish to lay before the Commission is entirely upon the agricultural question. We have no mines working in our district at all. Mr. Gregson's property is in the mining part of the county, I am not myself either a lessee or a mortgagee of leasehold estates, but as trustee for other parties, I am interested to a very considerable amount, and attend here by the appointment of a large body of leaseholders in the south-eastern part of the county of Durham. With regard to the modes and terms of renewal, the custom in our district is to grant, with respect to leases for years, a lease for twenty-one years, and to renew it at the expiration of seven years; leases for lives are granted for the lives of three parties, who are named by the lessee, without any interference on the part of the lessor, and are renewed at the death of each one of the *cestuique vies*. In our district the renewal is so entirely a matter of course, that an intimation at the period for renewal comes from the lessor's agent or the bishop's secretary in a printed form ready for use, stating that the time is arrived for renewal, and that the amount for the fine is so much.

1723. Therefore it is not an application on the part of the lessee, but the lessor gives notice; is that so?—Yes; the lessor gives notice. On leases for twenty-one years the custom is to pay the lessor's one and a half year's net value every seven, and in leases for lives there has, within my remembrance, been in the mode of calculation some little alteration,—an alteration that in some cases would act against the lessee, but not in all. In the time of my father, when Bishop Barrington was Bishop of Durham, he took a year and a quarter's net rent on putting in a new life, without any reference whatever to the ages of the existing lives; when Bishop Van Mildert came to the see he altered that, and he then renewed a life upon the calculation of the eight per cent. tables, having reference to the ages of the existing lives. I think I may say that the average is from twenty to twenty-two per cent. on the renewals for leases for years, and of twelve per cent. on renewals of leases for lives. Of course, with regard to leases for lives, that to a certain extent must necessarily be a little uncertain.

1724. Will you explain that?—If you have a farm of 100*l.* a year, from twenty to twenty-two per cent. pays the septennial fine; the rest finds its way into the pocket of the lessee. Upon leases for years the average would give from twenty to twenty-two per cent. On leases for lives it would give an average of about twelve per cent.

1725. That is to say, if the lessee would put by the twenty-two per cent., the lessee would get clearly every year in his pocket the difference between 100*l.* and 22*l.*?—I should say less than that would do to put by; if you consider the accumulation of interest, it would be less than twenty-two per cent., if you were to take it without reference to laying it by annually.

1726. Do you mean to say that the lessor would get in seven years seven times twenty-two per cent.?—It comes exactly to this; out of 700*l.* the lessor would get 150*l.*

1727. When you use the expression "net value," what deduction did you make?—I suppose the 100*l.* a year to be the tenant's rent, which is the mode of valuing with reference to renewals.

1728. Do you include in the twenty-two per cent. the rent reserved as well as the amount of the fine?—No, I do not; the rents reserved with us are small.

1729. When you say it would be twelve per cent. on lives, how do you get exactly at that twelve per cent.?—From actual experience; taking various cases, and seeing what for a certain time occurs. There is a large estate near Stockton, held by lease on three lives under the Bishop of Durham, in which I am a trustee. Taking that for one instance, and then taking as many others as have come within my own knowledge, I find that is the average.

1730. That

1730. That is to say, twelve per cent. put by annually, without reference to any compound interest, would make up at the end of the period the amount of fine to be received?—Yes, the amount of the fine the lessee would have to pay.

1731. Do you mean if it were put by for so many years that elapsed in the interval between one renewal and the other?—Yes; that, on the long run, the burden of renewal would be found to be twelve per cent. on the lessee.

1732. That is to say, without any relation to compound interest?—Yes.

1733. Merely as if put by in a box and kept there?—Yes.

1734. That would be what you calculate the lessor would receive; that is about twelve per cent.?—That would be the burden which would fall on the lessee; it would be something like a deduction of 12*l.* out of every clear 100*l.* his estate brought him in.

1735. If the lessee had put by 12*l.* every year out of every hundred, and put it into a box without allowing it to accumulate at interest, that would have given him the fine which when a renewal was called for he would have had to pay?—Yes.

1736. Without any relation to the accumulation of money?—Yes. I am not quite sure as to that. The way in which I have calculated is this: I should state, I am no accountant and no actuary; and I have ascertained from my clients the sum they state to me has actually gone out of their own pocket in order to provide for these fines, it not being the custom to lay by the money. The money is not really, in point of fact, in ordinary practice, laid by either in a box or invested at interest from year to year. I am correct as I have stated, and it is without any calculation of interest, as Mr. Gregson tells me.

1737. I suppose you take a number of your clients; they tell you what it has cost them in twenty years, or a series of years, for fines?—Exactly.

1738. Do you take an average of the cases, and see how much they had to pay a year?—Yes.

1739. £2,000 in the case supposed would have been received for rent?—Yes.

1740. When the renewal came they would have taken twelve per cent. only of the 2,000*l.* as fines?—Yes.

1741. It would have been the same thing to the lessee if the lessor had received the 12*l.* a year instead of the fine?—It would have been better for the lessor if the lessor had received it annually, and put it out to interest, then he would have been in a better position; however, that is the mode in which I get at it. With regard to the tenant's confidence in the right of renewal in this district, I wish to state, that up to the agitation of this question in Parliament in 1837, or rather, perhaps, when the First Report of the Ecclesiastical Commissioners became known in our district, it was one on which we had never entertained the slightest doubt or question on any occasion.

1742. Has there been no instance of refusal to renew?—Not at any time in that district with which I am acquainted, except the one I shall afterwards allude to. I am also directed to draw the attention of the Commissioners to what, I have no doubt, all the gentlemen have seen: the public documents which are referred to with respect to the diocese of Durham in the Report of the Parliamentary Committee. In the first place, the adjudication of the Queen's Council in the time of Elizabeth, when it was positively stated that the tenants were to hold their lands from the dean and chapter by lease for twenty-one years, and so from twenty-one years to twenty-one years for ever. That is followed up again in 1649, by the Parliamentary Commissioners of Survey; they set out the adjudication of the Queen's Council in 1577, and they add their approbation of it, and find that the livelihood of hundreds of families in the county of Durham depends upon their continuing to hold their leasehold property, and in the same manner. In another document, which I believe is not mentioned in the Report of the Parliamentary Committee, it appears the Commissioners of Sale, in disposing of this property by the direction of Parliament, acted upon this principle in making the sale, for they allowed to the lessees who purchased a certain number of years for the tenant's right of renewal.

1743. Have you got the particulars of that?—No; it is in the first volume of Surtees's History of Durham, page 112. By that document it is proved to have been ordered the tenants should have "an abatement and reprize in their respective purchases of the said "lands, valuably, proportionably, and according to their present holdings."

1744. Does that amount to more than this: that when they buy the land they are to have due allowance for the tenure they have already?—I am only giving the termination of the document. I refer to the document itself, as mentioned in Surtees, which will bear me out in stating that it is more than that. I think it refers in terms to the tenants right of renewal, which had been previously ratified by the Commissioners acting upon the principle of the Queen's Council in 1577. The term "abatement and reprize" could scarcely apply to the case stated in the question. The bargain was for the reversion, subject to the tenant's holding; and it would have been scarcely necessary to say that there should be a reprize or allowance made for that which was not the subject of the purchase or sale.

1745. We shall find this document in Surtees which may support the view you have given, but do the words you have read include tenants rights in the sense of the tenant's right of expectation of renewal?—I think the Commissioners will find, on referring to the document, that it will appear beyond all question that what I state was the meaning of it. All that the Parliamentary Commissioners would have to sell the tenant would be the reversion,

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reversion, subject to the term; and to make a reprize or allowance out of something which they never sold, and did not offer for sale, would scarcely, with great submission, appear to me to come within the terms of "abatement and reprize."

1746. They were going to sell the fee simple of the land, and that land is subject to an existing lease; the terms which any one would speak of then would be, that they are to pay certain sums for the reversion, or to make due allowance for the extent of the term or interest they actually had in the land, supposing the point only depending on that particular passage; is it more than that?—I refer to these public documents, in the first instance, as showing the ground on which this public confidence to a certain extent is based in the county of Durham, and that perhaps they in some respect make a difference between the county of Durham and other districts, and on that account the lessees there were anxious that they should be laid before the Commissioners.

1747. Are these peculiar to the county of Durham, or do they extend to any other part of the north?—To the diocese of Durham; and I ought to state only to the dean and chapter lands, and not to the bishop's.

1748. Has there been practically, in consequence of this distinction between the basis on which the security in regard to the dean and chapter lands rest, and that on which the bishop's lands rest, any difference in public confidence?—The public confidence I think has really applied equally to the whole. I should state, these documents appearing in both our county histories, and being extensively circulated, are in the hands of and are known to most of the lessees, at all events to the educated lessees, of the district. As another ground of that confidence of renewal, I should mention the peculiar position of the two contracting parties, the lessor and the lessee; that the lessor merely having a life interest in the property, he was less likely than a private individual would have been, whose family would succeed to his estate on his death, to refuse the fine for the purpose of running out the lease, and therefore that circumstance has confirmed the confidence that at the usual septennial period the lease would be renewed.

1749. Has it been considered that the same expectation of renewal has existed in regard to chapter property as in regard to the bishops, where there is only a single life, and where only one life was running against the other?—Quite so; because the leases are usually granted for three lives; and it was not very likely that any one bishop, who is not usually young when he is appointed to the see of Durham, would run his life against the two surviving ones.

1750. Are there life leases under the dean and chapter?—No life leases under the dean and chapter; none. I mention, as another ground for the confidence that the lease will be renewed at the usual period, that when the lease is delivered over to the lessee it always contains an indorsement especially drawing the attention of the lessee to the period when the renewal ought to be made. Then again, as a still further ground for confidence in the tenants right of renewal, lessees have always been considered as the owners of the land, and not as mere lessees. As instances of that, I may mention, that they have erected their farmbuildings, drained the land, and made all other improvements, without any application for contribution to the lessors. They are not, by the leases in the district of which I speak, bound to any particular mode of cultivation; they are at liberty to plough out their grass land, manage and cultivate the property in any way they please; and they paid the expense of the commutation of the tithe, which expenses were by the Tithe Commutation Act to be paid by the owners of the land.

1751. Was not this the case: if the tenant had an existing interest, say for twenty years, then he paid all the expense of commutation; beside, (by the Tithe Act it is contemplated that the expense shall be paid from twenty years,) if he had an interest less than twenty years, then he charged the expense upon the land, and it was understood, if he lived for twenty years he would pay it all, if he did not, then the lessor paid?—If I am speaking to one of the Tithe Commissioners I speak with great deference and respect. My friend Mr. Gregson, here, who is a large landed proprietor himself of this tenure, will be able to speak more positively. He informs me I am correct, and that in point of fact those expenses were paid exclusively and entirely, under all circumstances, however limited might be the interest of the lessee, by the lessee. In the district of Stockton Ward I speak with confidence to that having been the case. Another point that has tended to the great confidence in the right of renewal is, that in the case of adverse claims made to property demised the lessees are left to fight the battle entirely. I can speak to two instances that have come within my own professional experience; the one case, the estate purporting to be leasehold for lives, was demised by the Bishop of Durham; it was claimed by the owner of the adjoining copyhold estate, and a very expensive litigation ensued. The whole of the expense of that litigation, the risk of failure, and outlay, all fell upon the lessee. The lessor gave every information, and his agents attended as witnesses; they were paid for that attendance, and the whole expenses were defrayed by the lessee. That is one instance. I adduce another, which refers to the Corporation of Stockton. The Corporation of Stockton are the holders of certain tolls by lease for twenty-one years under the Bishop of Durham; parties claimed a right to enter the port where these tolls are payable without paying them; a very expensive litigation then ensued; and the whole management, cost, and risk of that trial were likewise undertaken by the lessees. And that is in point of fact the general mode in which questions affecting the title to the demised premises are settled and managed in the district of which I speak.

1752. Do

1752. Do you mean to state, on your own personal knowledge, that the lessors never contribute to the expense of such titles?—Never, in the cases that have come under my experience, further than this; and, in the two cases which I have referred to, I was also going to add, we made the outlay the ground to ask for favourable consideration at the next renewal. Some little reduction was made in consequence, but to nothing like the extent, or one half, or, I should say, one third, the extent, of the expense to which we had been put in trying the cases.

1753. Were the cases of leases for lives or years?—One was a case of leasehold for lives, the first I allude to; the other to which I have alluded was leasehold for years, being part of the tolls demised to the corporation of Stockton.

1754. The two parties being interested, the lessor and the lessee, the lessee having an interest in the property, some allowance was made by the lessor afterwards on account of the fact that the lessee had paid those expenses wholly?—Yes.

1755. You do not know, do you, that that allowance was not according to the equivalent difference of their interest?—Suppose we had failed in the case, and lost the demised premises, the lessor never held out any expectation of contributing, nor did the lessee anticipate any.

1756. Would not the law have done that without the lessor's consent?—I speak with submission, but my opinion is, that if the lessee tried the question, the law would not.

1757. Would it not depend on the covenants in the lease?—It might depend on that, but it would principally depend on whether the demise was perfectly clear in its terms; supposing we could have shown it was so, and that there could be no question or doubt about it, the litigation could never have ensued.

1758. The real litigation was, whether it was Church land, or whether it was within the copyhold, was it not?—Yes; the copyhold itself being held of the manor of which the bishop is lord.

1759. You are not prepared to state what proportion the allowance bore to the actual state of the lessor's interest, are you?—I have not made any calculation of that; but I can state positively, as a fact, it was made without any reference at all to their relative interests; it was done as a mere matter of grace and favour.

1760. Did they consider whether they would make any allowance at all or not, and ultimately they did?—They did. We applied, as matter of favour, in consequence of the heavy expense we had been put to, to the bishop's agent, Mr. Davison, who always on these occasions acts exceedingly fairly, and I think he did take it into consideration.

1761. Is not that exactly the same thing as if he had put his hand into his pocket and paid part of the bill?—I think it is different; we had all the risk of failure; supposing we had not got the property at all, it would not have been there to renew; we should have laid all our money out without getting anything.

1762. Did you consult the lessors upon that subject?—It was absolutely necessary to be in consultation with the lessor's agent.

1763. Must you not either have expended the money or given up the property, and then the Church would have lost it?—Yes, certainly.

1764. Are you prepared to give the proportion that the lessor's interest bore to the lessee's?—No; but I am prepared to say this, that the allowance was made without reference at all to the relative interests.

1765. Do you not mean, without such reference in the minds of the persons who calculated, that you cannot tell us what the proportions actually were?—I cannot, further than to state this, that it was nothing like what the allowance would have been if the relative proportions had been taken into consideration.

1766. If you do not know what the relative proportions were, how can you know it would be nothing like what the relative proportions would have been?—I think I can show you that. I know that the allowance was not made until the leases became renewable. Take the case of the tolls; it was one of a twenty-one years lease; and I am quite prepared to state that the allowance was not made till the next renewal. If the allowance had been made at the period when the expense was incurred, I then could have said nothing with respect to the proportion, but inasmuch as that allowance was made when the lease became renewable,—when the interest the lessee had was ascertained, namely, a fourteen years term,—I can positively state that the allowance made was not as much as the lessor would have had to pay and contribute if the expense had been borne according to the relative interests at that time of lessor and lessee.

1767. What were the relative interests of the lessor and lessee in a fourteen years lease?—In another part of my evidence I shall be prepared to show the Commissioners what leaseholds are selling for in our neighbourhood. I am now speaking of the relative value of the lessor and lessee's interest, in the sort of way it may have been treated by tabular valuations, and which in our neighbourhood would certainly not give any thing like the relative value. Upon all those grounds, commencing with the public documents that I have referred to, and upon the various other grounds that I have mentioned, there has been, up to, I may almost say, the constitution of this Commission, the greatest possible confidence in the tenant right of renewal in the district I represent. And I should wish now to pass on to the consequences of that confidence as regards the lessee's interests. That confidence was shaken, as I before mentioned, by the remarks of the Ecclesiastical Commissioners, but in our

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our district it was entirely restored again by the Report of the Parliamentary Committee in 1839. Leasehold estates bought subsequent to that time have been devised in strict settlement; in numberless cases provisions have been made in the instruments creating such settlements for raising the fines upon renewal; rules have been laid down by courts of equity how they are to be raised in cases where such provisions are omitted; and I am myself a lessee, and trustee in many cases of property to a very large amount where parties have a mere life interest, with remainder to their children. Another consequence of the confidence of renewal has been, that in our district the "market value" of the lessee's interest has been very much beyond what is called the book value of his term; upon that point I have drawn out a list of purchases, including every purchase of leaseholds for years, which has passed through my hands since 1839, and including some few previously, to show the number of years purchase which in our district is usually given for property held by lease for twenty-one years.

1768. Are the properties you are now speaking of all for terms of years?—Yes; we have very little leasehold upon lives in our district, and that little has not with my clients changed owners during the period I am referring to, except in cases where it has been sold with other property, copyhold or leasehold for years; so that in those instances I have been unable to prepare anything like a tabular statement, with respect to leaseholds for lives, from my own practice and experience as a solicitor.

1769. Did you not state that there had been some change in some respects since you have known this diocese?—Yes; with regard to renewals in Bishop Barrington's time, he took a year and a quarter's rent as the rule in putting in a new life, without reference at all to the ages of the existing lives. Bishop Van Mildert altered that; he referred to the ages of the two surviving lives, and put in a new life upon the eight per cent. table.

1770. Do you say that that affected parties differently, in some cases as an increase, and in others a decrease?—I apprehend that if the two surviving lives were very young, (they must be very young, I grant, and I have not made the calculation,) it is possible perhaps then that the principle applied by Bishop Van Mildert might be more favourable to the lessee than that of Bishop Barrington; but on that point I speak without having made a calculation.

1771. Did you not rather press the alteration as having had the effect of increasing the fine?—Yes; no doubt about it; and it is unquestionably so.

1772. Do you mean upon the average?—Yes, unquestionably.

1773. Have you any means of stating what that average was?—No, I have not; this is the list to which I refer:—

Date of Purchase.	State of Lease.	Nature of Property.	Amount of Purchase Money.			Annual Value.			Number of Years Purchase.
			£	s.	d.	£	s.	d.	
17th Feb. 1846	To hold from the 9th of October 1842 -	Land - -	2,050	0	0	100	0	0	20½
31st Dec. 1846	To hold from the 19th September 1843	Land - -	800	0	0	35	0	0	21⅓
12th Aug. 1848	To hold from the 9th July 1845, the 10th of March 1845, 17th June 1843, 4th May 1847.	Land - -	2,900	0	0	77	0	0	37¾
13th May 1846	To hold from the 11th June 1842 -	Land - -	800	0	0	35	0	0	24¾
13th May 1846	To hold from the 4th May 1840, the 24th of July 1842, the 9th July 1845, the 16th April 1845.	Land - -	950	0	0	45	0	0	21
31st Dec. 1846	To hold from the 18th July 1841, the 18th July 1841.	Land - -	1,000	0	0	35	0	0	27
13th May 1839	To hold from the 18th August 1834, the 29th September 1834, the 29th June 1833.	Land - -	2,520	0	0	125	0	0	20¼
1846	To hold from the 16th July 1843 -	Wind Corn-mill	455	0	0	20	0	0	22½
31st Dec. 1846	To hold from the 1st November 1844 -	Land - -	840	0	0	35	0	0	24
13th May 1846	To hold from the 30th December 1844, the 17th June 1843, the 1st November 1843.	Land - -	2,650	0	0	120	0	0	22
22d Nov. 1843	To hold from the 17th June 1843 -	House - -	140	0	0	10	0	0	14
12th Aug. 1840	To hold from the 26th January 1839 -	House - -	300	0	0	13	0	0	23
1840	To hold from the 18th August 1834, the 29th September 1834, the 9th October 1834.	Land - -	1,000	0	0	8	0	0	125
2d Jan 1839 -	To hold from the 16th May 1835 -	Building Land -	485*l.* per Acre.			—			—
23d Nov. 1847	To hold from the 5th September 1847 -	Land - -	3,170	0	0	173	0	0	18¼
27th Oct. 1847	To hold from the 4th August 1845 -	Land - -	800	0	0	40	0	0	20
13th May 1844	To hold from the 10th June 1842 -	Land - -	1,600	0	0	75	0	0	21¾
11th May 1831	To hold from the 29th June 1831 -	Land - -	630	0	0	30	0	0	21
13th May 1839	To hold from the 20th February 1839 -	Land - -	350	0	0	15	0	0	23¼
13th May 1829	- - - - - -	Land - -	4,800	0	0	220	0	0	21½
17th May 1843	- - - - - -	House - -	200	0	0	19	0	0	10½
May 1845	To hold from August 1845 - -	House - -	150	0	0	10	0	0	15
May 1846	To hold from May 1844 - -	Land - -	2,705	0	0	135	0	0	20
13th May 1848	To hold from the 8th July 1846 -	Land - -	1,400	0	0	75	0	0	18¾

The

The first I find in this list was a sale on the 17th February 1846; the state of the lease at that time was to hold from the 9th October 1842, so that four years had expired; the amount of the purchase money was 2,050*l.*, the annual value of the property was 100*l.*, and there the number of years purchase was twenty and a half.

1774. That was with four years run out?—Yes; four years run out. The second on the list is a sale on the 31st of December 1846, the lease being to hold from the 19th of September 1843; the purchase money was 800*l.*, the annual value 35*l.*; therefore the number of years purchase was twenty-one and a half. The third instance is a sale, on the 12th of August 1848, of property held under several leases, one from the 9th of July 1845, another from the 10th of March 1845, another from the 17th of June 1843, another from the 4th of May 1847; the purchase was 2,900*l.*, the annual value 77*l.*; and there the number of years purchase was thirty-seven and three quarters.

1775. Was there anything peculiar in the circumstances attending that case?—Yes, there was; and with regard to that I should state that I exclude both that and one or two other cases, which the Commissioners will see upon the statement, in forming the average of what the leaseholds sell for in our district; I exclude that and one or two others as exceptionable cases, and as not fairly entering into the averages.

1776. The others you have mentioned you consider as average cases?—Yes.

1777. What do you make the average, excluding those?—Excluding those, I make the average from my list amount to $21\frac{5}{16}$ years purchase.

1778. Is there not one in this list a clerical error, 125 years purchase given?—No; that is quite correct; but if I may be allowed to explain, I beg to say that I merely put that in that I may be enabled to state the list contains every purchase of leaseholds for years made by my clients from those dates.

1779. Do you mean to state that they are not selected cases?—They are not selected.

1780. Do I understand that these two or three that you alluded to are excluded from the average?—Yes; I did not take the thirty-seven years purchase or the twenty-seven years purchase, or the one at 125 years purchase, into the calculation of the average; and I can explain the cause of that if necessary.

1781. In several of the cases to which you referred a certain number of years had run out before the renewal would take place?—Yes.

1782. Was it considered that the lessee was under an obligation to renew as well as the lessor?—I never knew an instance of the lessees refusing to renew where they had the ability. I have known instances of a lessee being obliged to sell his lease, not being prudent enough to be provided for the renewal fine.

1783. Have you known of any cases where there were persons having no children, or no interest in posterity, refusing to renew from not caring about it?—None whatever; that could not occur in our district, because in that case he would then take his term to market, where he would get $21\frac{5}{16}$ years purchase for his term, whereas by running his lease out, I have no doubt, although I have not calculated it,—and it is matter of calculation,—that it would be found that the lessee would be a very great loser indeed.

1784. By going into the market he could sell it upon the terms you have stated?—Yes.

1785. In a number of the cases which you have been familiar with are there many in which the lessee has not renewed exactly at the time he ought; that is, he has allowed a portion of the seven years to pass away before he has renewed?—I think there are none such.

1786. According to your experience do the tenants invariably renew at the proper time?—Yes.

1787. Are here not instances of running out a portion of the seven years before they renew?—I have known many instances where the lessee has had some little time accorded to him as matter of accommodation by the lessor. Undoubtedly the lessors have not been in the habit of saying at once, "Unless you are prepared with your money against such "a day we will not renew your lease at all."

1788. Is it not the fact that it is the custom that a portion of the seven years has run out before the renewal takes place?—I have known instances of their having gone on until the end of fourteen years.

1789. Suppose they had gone six months before the fine was paid, would not the lessor take an interest upon the deferred time?—In my experience, with regard to the six months, I should say that the dean and chapter and the bishop have not been in the habit of marking anything for so little as six months. I think that is the time which they would usually accord to a lessee as a matter of accommodation; if they got much longer than that, then a letter is addressed to the lessee, stating that the fine will be reset unless the old terms are immediately complied with, which is usually done.

1790. And would that include a per-centage upon the former fine?—No doubt.

1791. Such cases as those are not uncommon?—They are not common in our district; as to other districts I cannot speak.

1792. Are

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1792. Are they uncommon in your district?—They are uncommon. I should say they are the exception, and not the general rule.

1793. Are there not cases in which it would occur that an old bachelor would refuse to renew, being satisfied with the security he has for his own life?—Certainly not. I can state generally, there have been no such instances in our district. With reference to the terms which I have been alluding to, I have excluded, as I have stated, those which have taken place at twenty-seven years, thirty-seven years, and 125 years purchase; and I do not take into consideration the houses; in the average the houses are at a less number of years purchase, and would reduce, to a certain extent, the average. I exclude all those, and I make it an average as to the land leases.

1794. What is the class of circumstances that gives an extra value beyond its natural value to that property which is disposed of at twenty-seven years and thirty-seven years, and so on, purchase for land?—With regard to that at thirty-seven years, the purchase was made by a gentleman of large property, it being adjacent to his own freehold estate.

1795. That is a case in which it arose from contiguity?—Certainly; and with regard to the 125 years purchase being made, it was the case of a permissive railway being made; made, I mean, by permission of the landowner. The Dean and Chapter of Durham claimed the right, under the reservation in their lease, to grant this piece of land for general purposes; for general traffic, and for the transit of minerals, wherever they might be brought from.

1796. That is the case then of a wayleave?—Yes; under a reservation in the lease. The lessee contended, and successfully, that that was not the legal interpretation of the reservation; that it was more confined, and extended only to minerals brought from under the particular land demised; and then the agent of the dean and chapter appeared on the behalf of the gentlemen who were carrying forward this project, bought this piece of land, and gave that price for it; and I have only inserted that for the reason I mentioned before.

1797. Was there not a lawsuit about it?—Yes, there was. I think these cases will include the whole of the purchases which have been made under extraordinary cases.

1798. Have you any cases that you can mention of sales with regard to house property as well?—Yes; this paper contains them. I have taken houses as well as land. I have an instance that does not enter into my average, which does not come either under agricultural value or house value, and that is, where a piece of land was bought for building purposes, and produced 485*l.* per acre. The purchaser gave that price to the lessee for his interest, and then erected a house upon it. He erected his house upon this leasehold property.

1799. What interest did he take in the land for that sum?—It was bought upon the 2d January 1839. The lease was dated on the 16th of May 1835; so that four years had gone out of the twenty-one; he therefore got a seventeen years lease.

1800. With a chance or a hope of renewal?—With the then fullest and most perfect confidence of renewal.

1801. So much so that he built a house upon it, did he not?—Yes, he did.

1802. In that case would he, without reference to the expectation of renewal, have been fined on the new value give to the land by his own building?—The custom in the district I speak of has been not to take into consideration improvements of that kind upon the first renewal.

1803. In point of fact, therefore, what he practically looked at was twenty-four years interest in the land, without any charge against him for his own improvements?—On the next renewal he would not have been charged on the annual value of the house, but he would afterwards.

1804. Was he secured, as he considered, practically, in the enjoyment of twenty-four years interest in the land, without any charge for improvements?—It would be ten or eleven years before he would have to pay for his improvements in the shape of a fine; the bishop's agent would not look to the date of the purchase, he would look to the date of the lease; he would find in three years, which would be the time when the lease became renewable, from the report he would receive, that there had been such an erection made. This being the first renewal, he would say, "We do not charge." The second renewal would come in seven years, and then it would be charged; so that at the end of ten years the lessee would be charged for his improvements.

1805. Then he had security for ten years against any charge upon his improvemennts in the shape of fine?—Yes. Referring to another instance named in my paper, I find that on the 17th of May 1843 a house was sold for 200*l.*; the annual value was 19*l.*; the state of the lease I was unable to get, it had passed out of my hands; and that was ten and a half years purchase, taking it as the full lease. Taking another case, in May 1845, the lease being then full, the house was sold for 150*l.*, the annual value being 10*l.*, the number of years purchase fifteen; and those are the only instances of houses that my list contains. As another consequence of this confidence of renewal, I will mention that mortgagees have been in the habit of lending money on property of this kind, according to the scale of value I have given

given in, and they have allowed the lessee to remain in possession of the whole of the rent, never interfering further than to see that at the proper septennial period renewal was made.

1806. What security had they that the lessee would renew?—The mortgagee's security is made in this form: the property is conveyed to the mortgagee in trust, in the first place, to renew, and, subject to that trust, to raise the mortgage money and interest.

1807. Supposing the mortgagor did not renew, what would be the process?—It is conveyed to the mortgagee by the mortgagor in trust to renew, and the mortgagee would effect the renewal.

1808. Do you mean that the first trust is to renew?—Yes.

1809. Does he renew, and then charge the renewal against the mortgagor?—In practice the person borrowing the money usually takes care to provide the fine and renews; but what I meant to explain to the Commission was this: that until the septennial period arrives the mortgagee does not interfere, and he does that upon the confidence that at the end of the seven years the term will be again made up to twenty-one, otherwise, as a prudent man, he would not allow the lessee to continue in possession of the whole of the rent without funding something annually in order to provide for the repayment of his principal money and interest.

1810. Is that because he is the party who would have to renew?—Yes; he is the party who would have to renew, or his security, acting upon this scale which I have mentioned, would not be sufficient to secure the mortgage money and interest.

1811. You say that he will consider this as worth twenty years purchase?—Yes, more, as shown by the statement I have put in.

1812. Is not the ordinary margin they allow for freehold property only to advance two thirds of the value?—Yes; and I think they go quite as far as that in my district upon these leaseholds.

1813. Do you mean that they would go as far as two thirds of twenty-one years purchase?—Yes.

1814. That would be 1,400*l.* upon an estate of 100*l.* a year?—Yes, it would.

1815. In what condition would the mortgagees find themselves if the renewal was put an end to?—In many cases the loss, instead of falling upon the lessee himself, would fall upon the party who is the quasi lessee, in fact upon the mortgagee, the man who has lent the money. In many cases the security would become insufficient. I should also mention, and I believe it is a point adverted to by the Parliamentary Committee, and on which a great deal of conflicting testimony was given, that in the district I speak of the leasehold property has been in every respect, as it is at this moment, as well farmed, and as well managed, and as well cultivated, and the houses kept in as good repair, as if it had been of freehold tenure.

1816. You mean in that part of Durham to which you have been referring?—Yes. I have an opportunity of speaking very positively upon this subject; because the estate of the Bishop of Durham which is let at rack rent, to which I alluded in the commencement of my evidence, immediately adjoins the other leasehold estate I named as leased to myself and others in trust for parties. These two estates do not actually abut upon each other, but only a turnpike road divides them; and there those two estates are to be seen at any time; and most unquestionably, as to draining, as to farming, or as to management, though both are well cultivated, yet the rack-rent estate has not the least advantage over the leasehold estate. As showing the confidence of Mr. Smith, the late owner of that estate, that it would be renewed and kept in his family, he actually directed by his will that any portion of it which should not be in grass at the time of his death should be laid down to grass, he himself having gone on gradually converting the whole into grass; and since his death, as one of his trustees, I have followed out that direction in his will, and the estate at this moment is all in grass.

1817. Is that rack-rent land let for a term, or merely from year to year?—From year to year.

1818. Is that the common tenure of rack rent in the country?—Leases are not very common in our district; we have not a great deal of farming capital. I think generally the effect of leases would be to bind the landlord and not the tenant. As a consequence of the present re-agitation of this question leasehold estates cannot be disposed of either by way of mortgage or sale. In the whole of the district I speak of it is put an end to. There is no dealing with such property, either by way of sale or by way of mortgage; and I may mention as coming under my own observation (and I have no doubt that other professional men may have met with instances more frequently) that where a loan had been actually negotiated and agreed upon, the mortgage deed signed by a great number of parties, and everything completed, except the intended mortgagee paying the money, that when the news of this re-agitation reached the district the mortgagee declined to complete; the whole of the expense was incurred uselessly. No professional man can now recommend a client either to invest his money by way of mortgage upon or by way of purchase of these leaseholds; and I think I need scarcely point out to this Commission what is the necessary consequence of such a state of things.

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1819. Are you therefore of opinion that it would be very important that some conclusion should be arrived at as early as possible; that is, that the legislature should produce an enactment?—Yes; that a legislative enactment of some kind or another has really become absolutely necessary.

1820. Do you believe that any expression of opinion upon the part of this Commission, without a legislative enactment, would relieve parties from such embarrassments as you have just referred to?—I believe with regard to the great body of leaseholders that it would do so, and that they would have confidence in that.

1821. Do you mean that they would have confidence that the expression of an opinion on the part of a Commission of this kind would be acted upon by Parliament?—Yes; that is, they would believe in the statement emanating from such a Commission as this, or from any other properly appointed and deputed body; they confided in the decision of Queen Elizabeth's Council, and of the Commissioners of the Long Parliament; and they also confided in the Report of the Parliamentary Committee of 1839; and I believe that they still, notwithstanding what has passed, might probably do the same again; but, as a professional man advising a client, that would not be the effect upon my mind.

1822. Do you mean that you would hardly feel a sufficient security that an opinion emanating from a Commission before it had been thoroughly sifted by Parliament would be the kind of conclusion to which Parliament might come?—I should be afraid that it would be just as open to constitute another tribunal to inquire into the matter after the expression of opinion from the Commission, as it appears to have been the opinion of the Government that it was open to them to do so after the expression of opinion of the Parliamentary Committee in 1839.

1823. Do I understand you to say what is really important upon the question is legislation?—Yes; legislation, and a legislative enactment.

1824. (*To Mr. Gregson.*) Do you agree in that?—Yes; I entirely agree in that.

Mr. Faber. With regard to lessees, that which a man wishes he very easily believes, and I think that the great body of the lessees believing themselves fairly and properly entitled to a right of renewal, be the impression right or wrong, they would at once believe in such a declaration, but I think those who have to borrow money on property would still find it very difficult to do so, because a person about to lend money would consult his professional adviser upon the subject, and I, speaking as one practising in the district, would advise him not to make such an investment until the question was positively determined by legislative enactment. I wish to point out what I think would be some of the consequences to lessors, and I may also say, to the public, to the lessees, and to the mortgagees, if this question should be settled without reference to the market value of the lessees interest in the property in each district, or upon any such plans as have been submitted to the consideration of the lessees. I allude to the plans of the Irish Act, Lord Monteagle's, Mr. Bethune's, the Ecclesiastical Commission, Mr. Lefevre's, and Mr. Ansel's.

1825. Do you allude to those as not being satisfactory?—Not only as not satisfactory, but, such as it is, utterly impossible for the lessees in my district to comply with. You see from my evidence that from twenty to twenty-one per cent. has hitherto paid the lessors claim upon the property, and upon that basis the lessee's interest has acquired such a value that mortgagees have lent their money upon that scale, and provisions have been made for families, and annuities with reference to that scale of value have been created; and therefore, that at once to raise it from twenty per cent. to anything like forty-seven, or even forty-four or forty-six, to say nothing of seventy or sixty-five or sixty-six, must necessarily in numberless cases be actual and positive ruin.

1826. In Mr. Bethune's plan is there not a consideration for the market value in different parts of the country to which his operation would be directed?—Yes, quite so; but when it is carried out it still gives so great an increase that in our district, where we have for a series of 300 years enjoyed property upon the payment of something like twenty or twenty-two per cent., we should be now called upon, if that plan was adopted, to pay forty-six per cent.

1827. Is that so?—Yes, very nearly so.

1828. Is it not rather about thirty-three or thirty-four years?—I think it is not so. This great increase would no doubt leave parties entitled in remainder, without any provision whatever, unless, through the medium of the expensive machinery of the Court of Chancery, some arrangement was made by which the interest of the tenant for life was reduced so as to form a fund to accumulate for those in remainder; but even that clearly could never meet so serious a question as this would be, if any of the plans I object to were adopted in our district, where estates have been settled with reference to the value I have stated, and money lent upon the same scale of valuation.

1829. What does fee-simple land sell for in your district?—It differs in different districts, and of course in different localities.

1830. What is it in the neighbourhood of this property which you have been speaking of?—I should think about twenty-eight years purchase.

1831. Is it not more than that?—Not more at present, I think, according to my experience. I wish to state respectfully, but strongly, to the Commission, that in this district any

any one of these plans to which I have last referred would really be considered as very little better than confiscation, would produce very great disaffection to the State, and great ill-will to and dissent from the Church; that it would drive the lessees necessarily, they would have no option, to run out the leases, and in order to do that, having reference to their being left at perfect liberty to manage or mismanage their lands, they would adopt such a course as would give them the greatest sum of money that could be got in the remaining periods of their terms; the grass land would be ploughed out, the tillage land would be cross-cropped, and when the Church did enter upon the district it would be in an extremely dilapidated condition.

1832. Ploughing out grass land is waste at common law, is it not?—To be waste, I apprehend, it must be ancient meadow.

1833. Cross-cropping, would not that be waste at common law?—No; I am sure that the Commission will find, upon inquiry, that that is not the law.

1834. Supposing that a case has occurred in which a Sussex jury has given 1,600*l.* damages against the tenant for ploughing up grass land, what should you say to that?—That that must have been a case where there was a regular agricultural agreement, which would not be applicable to the case of such leases as I am speaking of. The custom of the country in the case you put would protect the landlord. Undoubtedly, in the absence of writing, a tenant from year to year would be bound by the custom of the country, and the Court of Chancery would by injunction restrain a man from committing what would in his case be waste; but in these leases there is an actual written contract, and the custom of the country does not apply; you demise to the lessee, and you know what the lease contains. In the case of granting a common agricultural lease in our district, in the few cases where they are granted, there is a regular provision made that the tenant is not to plough up the grass land, and if he does, it is attended with certain penalties. If you make a written contract which does not contain such a restriction, the law will not protect you; you have made a written agreement, and must protect yourself. I beg also to state respectfully to the Commission, that the question of a right of renewal is to be looked upon as more of an ethical than a mere legal or equitable one; I mean equity, strictly so called. In looking at the various public documents, independent of those I have named as affecting the county of Durham exclusively, it is to be observed that these leasehold interests were established, or at all events fostered, by Act of Parliament. The acts passed in the reign of Henry VIII. and Elizabeth expressly legalize them; and the effect of the very recent statute, whereby bishops and deans and chapters are prevented from anticipating the usual period of renewal, is to confirm the belief in the minds of persons wishing to purchase this property that these leases and the renewal of them had the sanction of the State, and that there was nothing repugnant to the interests of the community in thus dealing with Church property. This state-dealing with these leases, without objection to the principle of them, has also tended very much to confirm the confidence of the tenant-right of renewal.

1835. Would a variation in the terms of renewal in your opinion, be equally inconsistent with the equity of the case?—That, no doubt, would weaken the case, if you put it as one really of law or of strict equity; but the alteration I have referred to was a very trifling alteration; it was an alteration made with reference only to one part of the Church estates. It would necessarily be some time before it was acted upon. It was not as if any great change was made, as stated in any of the propositions I have named as so objectionable. The alteration certainly was made, and I believe occasionally was remonstrated against.

1836. Is the alteration you are now alluding to concerning the lives?—Yes.

1837. But my question is this: supposing the year is made a year and a half or two years, or something of that sort, without refusing to renew, that is, that there should be a variation in the terms of renewal only; would that be, in your opinion, a branch of the equity of the case?—You can scarcely say so. If acquiesced in, and if the renewal was effected, the terms must have been acquiesced in, though, if the alteration were to any extent, reluctantly. It might be acquiesced in, however, in consequence of the lessee doubting whether he should succeed in enforcing his right in a court of law; but, no doubt, by a lawyer he would be advised he could not; or, even if he could succeed, whether it would be prudent in him to try the question.

1838. Is there any record that the terms of renewal, have always been the same from the beginning?—It is clear there has been half a year's variance; half a year has been added since the time of Elizabeth and ever since the time of Charles. In the time of Elizabeth the adjudication was, that it was to be renewed from twenty-one years to twenty-one years for ever, on the payment of a fine of three years in the twenty-one of the net annual value; now it is a year and a half in seven.

1839. Has any instance occurred within your knowledge of single prebendaries running out the leases?—Within my district there is an instance going on where they have refused to renew; it is only a small property. That is done to increase the living of Billingham, which belongs to the Dean and Chapter of Durham; they are running it out to endow the church with the estate.

1840. Is it land?—Land.

1841. Allow me to ask you, and I do it in the best possible spirit, as you are talking of dividing this into a legal, political, social, and an ethical question, but upon the ethical question

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question you mean to leave out all reference in these special plans of ploughing up meadow land and cross-cropping; or whether, when you are talking of it as an ethical question, you wish to forget the ploughing up of the grass land and the cross-cropping?—I do not; for the wrong will have been inflicted before the grass land is ploughed up. A refusal to renew will previously have taken place; and, as a mere matter of self-defence, the lessee will,—and he will according to the strictest code of morals you can apply be justified, and left at full liberty to do so,—make the most of that which has been granted to him.

1842. Do you look upon it in that case as each party using his extreme rights?—No; I do not state that that follows of necessity.

1843. You do not deny, and I have heard nobody deny, that there is no legal right of renewal, and that there is nothing which a court of justice will recognize as the right of renewal?—I think not.

1844. That being the case, you admit that there is no right of renewal in the legal sense?—I think not.

1845. You assume as possible, which I do not think at all probable, that the Church, or these lessors, or whoever they may be, are going to enforce the right which nobody denies belongs to them by the law of the land; but is this cross-cropping and ploughing up the grass land and ruining the estate held up as a good reason to them why they should not do any such thing?—If I have been understood to state anything of that kind I am exceedingly obliged to you for the opportunity of putting myself right, because nothing was further from my intention. I stated merely, if either a positive refusal to renew took place, or if such terms of enfranchisement or renewal were offered to the lessees as I have referred to, and they were, as they would be, unable to comply with them, that then, as a matter of necessity, they would be driven to use the remainder of that which is their own, while the term lasts, in such a manner and in such a mode as to get from the property as much as they can during the remainder of the term. I say that in doing that they would not commit a breach of any moral duty.

1846. Supposing it was positive waste, that is a duty. The law of England forbids waste. Would it be correct because the renewal was refused, which according to law would be justifiable, that he should commit what the law of England recognizes as waste?—In your question that is assumed which I deny; it is assumed it is waste; if it be correct to state that it is waste, then the law will protect the property. I presume the object of this Commission is to hear evidence, and to be informed correctly as to what the result may be of the several proposed plans; and I can state positively, in our district, if any terms so high as these to which I have referred are imposed upon the lessees they will have no other alternative but to run out the leases and make the most of the remainder of the term. The principle which I wish respectfully to lay before the Commission is this: that the basis of any calculation with a view to an alteration in the tenure of these leaseholds should be the actual per-centage hitherto received from each property by the Church. That this should be the basis, and that in order to act upon this principle local inquiry by a properly constituted body should be instituted.

1847. Is not that according to Mr. Bethune's principle?—So far as local inquiry goes it is according to Mr. Bethune's principle. The lessees in the district I speak of feel very strongly that without local inquiry by a body constituted like the Tithe Commissioners,—the Tithe Commissioners, I believe, are getting through the remainder of their work rapidly; they are a body ready constituted to institute such an inquiry; and I am sure, from what I have seen of the gentlemen from that board, I believe that the Commissioners who have been in the habit of travelling round the county of Durham would command the confidence of the lessees upon an inquiry conducted upon the principle I have mentioned.

1848. Are you not arguing upon the assumption, which is the correct one no doubt, that the value of these lessees interests is very much enhanced by their having an expectation of renewal?—Clearly so.

1849. If instead of that *expectation* they had the certainty of renewal conferred upon them, would not that be an addition to the value of their estate?—I think it would. So far as I have gone in my evidence I have endeavoured,—imperfectly I fear, but I have endeavoured,—to represent to the Commissioners the case and the views of the lessees in the district I speak of; and I think I understood the noble lord in the chair to ask if I was prepared to make any distinct proposition. I certainly have considered the subject; but I must, in bringing forward a proposition, first state that I do not feel myself authorized to bind the lessees by any such proposition. I can only say, that if I were a lessee myself, in order to get rid of the constant agitation and re-agitation, the dropping and the opening again of this subject, I should be disposed most undoubtedly to accede to terms which would give the Church a considerable accession of income. I bring this forward with very great diffidence, for I am no accountant, and I have endeavoured to show how the principle would work, but for the figures I cannot positively answer. For an enfranchisement upon the principle of a perpetual rent-charge,—I assume that it is to be an enfranchisement on a perpetual rent-charge, not upon a money payment ——

1850. Do you mean converting the fine into an increased rent-charge?—Yes. The disposal of the purchase money would be an insuperable objection in my opinion to any other plan of enfranchisement. For enfranchisement on the principle of a perpetual rent-charge

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the proposal would be to ascertain the value of the estate in fee simple, then ascertain the value of the lessee's interest, according to the benefit he has enjoyed and the value his interest bears in the market, making the difference between this value and that of the fee the price of enfranchisement. That is the principle, not emanating from or originating with myself, but one probably that gentlemen upon this Commission may have met with; and it seems to me to approximate more closely to the justice of the case than any other that has come under my observation. Now, this plan would work thus: upon an estate of 100*l.* a year paying a septennial fine of one and a half year's value, that being the case in our district, suppose the fee worth twenty-eight years purchase; suppose the lessee's interest worth twenty years purchase; the value of the fee would be 2,800*l.*, on calculation, making allowance for the interest of money during the period of the first seven years running out, while the lessee is laying by and providing for his renewal, he would have to put into his own pocket, and spend for his own purposes, out of his 100*l.* a year 81*l.* a year.

1851. Lying by 19*l.*?—Yes; for the lessor.

1852 At what rate of interest do you take that?—At four per cent.; taking 81*l.*, which is the lessee's share of the rent at twenty-eight years purchase, (the sum we are reckoning the fee for, and therefore the proper one,) it gives 2,268*l.*; then, taking the 19*l.*, the money for the lessor, at the same number of years purchase, it gives 532*l.*; but we suppose the lessee's interest to be worth twenty years purchase, and this gives only 2,000*l.*; therefore from the 2,268*l.* I would deduct the 2,000*l*, and that leaves 268*l.*; now, taking the 19*l.*, which is the present annual value of the reversion, then adding to it four per cent. upon 268*l.*, which would be about in round numbers,—I have not an interest book to refer to,—about 10*l.* 10*s.*, it would give a rent-charge of something like 29*l.* 10*s.* instead of 19*l.*, or would be something like half as much again as the Church has been hitherto receiving, and I think would be quite as much as the lessees in my district, having reference to the statement which I have laid upon the table, would be able to bear. Then supposing you take the other alternative, and you merely give to the lessee a perpetual right of renewal, then my proposal would be to take the present per-centage received from the property by the Church for the rent-charge, adding something per cent. as a consideration for the right of renewal being in future made unquestionable.

1853. Does not your first proposition involve the perpetual right of renewal?—Enfranchisement by way of perpetual rent-charge is the first proposition; but if it be deemed advisable not to do that, and only to grant to the lessees a perpetual right of renewal,—an unquestionable and undoubted right of renewal,—that would only give to the lessees, in point of fact, what they are at present enjoying, what they have always enjoyed, and what in their view of the case they believe they ought in common fairness to have accorded to them by legislative enactment without further payment.

1854. Do you mean that the lessee's expectation of renewal should be turned into a certainty, and that he should pay nothing for it?—Yes; exactly so, in his own view.

1855. And do you suggest that as being a just view?—Having taken a view of the subject, and laid the evidence before the Commission, it is for them to judge how far I am correct in that view. If the only benefit given to the lessees is to be a perpetual right of renewal, then the proposal would be to take the present per-centage received from the property of the Church for the rent-charge, adding something per cent. as a consideration for the right of renewal being made in future unquestionable; what that something should be I am not able to state; I can state that the lessees in my district would not submit with a very good grace to any addition, and in fact if it was a very heavy one they would not be able to bear it; anything in the shape of addition, on this plan, they would think they got no equivalent for, because they have considered they have a right of renewal; but I quite admit that something must be paid for it. If that be the plan which is recommended, I quite admit the lessee must pay something.

1856. Allow me to ask a question, with a view to illustrate some evidence that we have had before. Did you ever hear of lessees, or trustees for lessees, paying legacy duty upon this expectation of renewal for a lease for years?—If I am to answer the question simply, I should say no; but I will endeavour to make myself understood as shortly as I can, and I may state that I believe myself, in point of fact, the Government do not get that, but theoretically they do. In this way: A testator dies, bequeathing one of these leasehold farms. What is the course? It is either sold, or it is not sold; if it is sold, of course, you pay the duty on the amount realized by the sale.

1857. The legacy duty?—Yes, clearly; you pay the legacy duty upon the amount you have received for the property. What is that amount? Why, it is the amount which the tenant-right of renewal has conferred upon it. I state that the estate bequeathed by the testator is either sold or not sold; if it is sold for the value which the renewal confers upon it, you pay the duty for the right of renewal; if it is not sold, then you are called upon by the Government to send a valuation of the estate; the valuer goes, and what value does he put upon it? he puts the value which it would sell for in the market; so that there again you pay for the tenant-right of renewal, but not eo nomine. But, as I said, I do not think the Government really gets that duty, because I fear the code of morals which we have been speaking about does not on all occasions apply when the subject is dealing with the Government upon these occasions. If it were told to surveyors, "You are to go and

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"value this estate, and we want the value for probate duty," I should be sorry to see those valuations put by the side of this list of actual sales which I have produced, because I think they would show they had been made for a particular purpose.

1858. Are not valuations for probate and valuations for taxation, in fact, always rather for the value, without reference to this particular subject matter?—Yes.

1859. You are no doubt engaged as a trustee or an executor in these matters. Have you gone and put into the schedule an expectation of renewal upon a leasehold under the Bishop of Durham, valued at so much?—I cannot understand how the question in that shape could arise in reference to its being put specifically down as an expectation between executors and the Government.

1860. Would not that always be merged in the value of the property?—Yes, certainly. Taking the first case on my paper, in the year 1846: if a gentleman had died, and a party had been sent to value the estate, to value as he ought to do, honestly, and not with reference to the particular objects, most unquestionably you would have paid the Government something for the tenant-right of renewal, because it forms an ingredient in making the marketable, and therefore the real, value of the estate.

1861. You have been accustomed to see these leases, and to be familiar with all classes of covenants?—Yes, I have, certainly.

1862. Do you find in any of them anything about doing duty against the Scots?—We are the farthest removed from the northern boundary of the county of Durham, and I have not seen any such stipulations or covenants; but it is by no means unusual, even to the present day, that they should be inserted.

1863. Have you any further suggestions to make?—None.

Mr. Gregson examined.

1864. Will you state what connexion you have had with property of this description?—I may, in the first instance, say, that I am a leaseholder myself, both for lives and years. For a few years of my life I also practised, in the city of Durham, as a conveyancer, which gave me some little general knowledge of the circumstances upon which Mr. Faber has already spoken. I should state that I fully confirm all that has fallen from him as to the marketable value of this property within the diocese of Durham. I became rather largely interested in this species of property, from the circumstance of my late father, (who had inherited an estate previously enfranchised under the Land Tax Redemption Act,) having from time to time bought several adjoining premises which had not been so enfranchised, and which are now leasehold property. He bought the property (beginning, I think, to make purchases so long ago as the year 1804, and continuing to add in this way to his estate pretty nearly up to the time of his death in 1840,) on an average of about twenty-two years purchase for the life land; for the years land, which was a very poor estate indeed, in a very unfavourable situation, and, generally, a very unmarketable property, and which was only bought by him because it lay between two of his *freehold* estates, he gave between sixteen and eighteen years purchase, about twenty-five years ago. Since the Report of the House of Commons in 1839 I also added to my leasehold estate by the purchase of a farm, partly held for years and partly held for lives, (the greater part for lives,) and gave very nearly twenty-two years purchase for that farm. With respect to the reserved rents being taken into consideration upon the "setting" of the fines (as it is termed) there appeared to be a little misapprehension in the course of Mr. Faber's examination; I think it, therefore, better to state, that the reserved rent, though generally only a trifling sum, *is* taken into consideration upon the setting of the fine. When the lessor's agent calculates the fine (as is the case in our diocese) upon the basis of one and a half year's rack rent for every septennial fine of land held for twenty-one years, he deducts the reserved rent from the actual rack rent of the farm before the fine is set.

1865. If the value of the land is 100*l.* a year, and the reserved rent is 5*l.*, would it be upon the 95*l.* and not upon 100*l.* that the fine would be calculated?—Yes; that, I believe, is the way in which it is done.

1866. Do you know about the proportion which the reserved rent generally bears to the value of the property?—It is very unequal. The amount of reserved rent is no criterion of the value of the property. Some small premises pay very much more than larger premises.

1867. Do you mean that it has no ration to the value of the land?—Not at all.

Mr. Faber.—By the restraining statute of Elizabeth it must be the ancient reserved rent.

Mr. Gregson.—In reference also to the case mentioned by Mr. Faber of the Dean and Chapter of Durham having refused to renew a lease for the purpose of increasing the living of Billingham, I think it right to mention (as a fact within my own knowledge) that in this case, for many years previous to such refusal by the dean and chapter, there had been the greatest difficulty with the lessee of the property in question (who has now been dead some years) in effecting renewals, not only of this but of other property of which he was lessee, and that he had always exhibited a strong and, to say the least of it, a very *injudicious* feeling against Church property generally. Perhaps I need not go into the old history of the leasehold tenure in our diocese, of which the Commissioners have already heard

heard from Mr. Faber, further than to say, that this history certainly has confirmed the ideas which we have at all times entertained respecting our equitable claim for renewal. There is, however, one circumstance which Mr. Faber omitted, and which I may be allowed to mention; namely, that it is distinctly stated in the certificate of the Commissioners acting under the Long Parliament that the tenant-right of renewal of the lessee had always been valued at five years purchase, and that even when a lease was completely run out the dean and chapter themselves were willing to give, and frequently did give, the former lessee the amount of five years purchase for possession. This is a curious fact, which appears in Hutchinson's History of Durham. It is also rather a curious fact, that this five years value for the tenant-right of renewal (or whatever it may be called) has borne a very near ratio to the market value of the tenant-right ever since. Certainly the market value which we have been giving, in the confidence of renewal, has been rather in excess of five years value, but still it has generally been so near as to be remarkable.

1868. In what way do you bring those two in comparison as bearing upon the present question?—Taking the table or book value of the twenty-one years lease upon the four per cent. table, (which, I believe, is generally considered as the fairest table to go upon,) the full twenty-one years lease is worth fourteen years purchase. The average market value of leaseholds for twenty-one years, in the county of Durham, is rather above twenty years; adding, then, five years purchase as the value of the tenant-right to the fourteen years table or book value of the lease, it brings the market value of the lease up to nineteen years; so that, taking into consideration the advance of the age, the ancient five years value of the tenant-right may certainly be considered as having borne a very similar ratio in the estimation of the public in our diocese up to the present time. It is further stated (as the Commissioners will find) in Hutchinson's History, that not only the dean and chapter were willing but frequently did give this five years value, but that people in the country, the neighbours of a man who either would not or could not renew, would give him, at the end of his lease, the same five years value for his tenant-right of renewal. Some discussion having yesterday taken place respecting the payment of the expenses of the tithe commutation, I had better, perhaps, now state, that I believe it never entered into the mind of any lessee in our neighbourhood to question for a moment that the whole of those expenses were to be paid by the lessees.

1869. And were they paid?—They were paid entirely by the lessees; and I paid very largely.

1870. As far as you know, did the lessees suppose themselves liable to pay, and, in point of fact, did they pay?—I am convinced that they did consider themselves so liable, and they certainly did pay without the slightest hesitation. I may also state, that I feel quite sure they would have been obliged to pay those expenses. The lessors in the county of Durham, I am persuaded, would not have listened to any application upon the subject. A question has been asked about the particular case of a bachelor, and as to the course he might be inclined to adopt under certain circumstances supposed. It does so happen that amongst my friends in Durham there is a gentleman in that state who is a large leaseholder, and he is now very considerably advanced in life, and latterly has, I am sorry to say, been rather in infirm health, but notwithstanding these circumstances I am sure that there is not one of the leaseholders in the county of Durham who is more alive to the importance of this question, or more wishful to have it properly and finally settled. He has not taken any active part in the proceedings we have recently thought it necessary to adopt on this subject, on account of the state of his health, but he is as desirous of having the question settled as I am myself. There is a curious circumstance connected with that gentleman's estate which perhaps I may be allowed to mention. His name is Mr. Shipperdson; he lives in Durham, but his family house and estate are at Piddingdon Hallgarth near Durham; that estate has been in his family for very nearly 300 years. The circumstance to which I allude is, that the mansion house of the estate is built upon the leasehold property, although there is a freehold part of the same property within a very few hundred yards of it. I mention this to show that if there had not been the greatest confidence as to the renewal, of course Mr. Shipperdson's ancestor would have put his house on the freehold and not upon the leasehold part of the estate. Mr. Shipperdson's family were hardly dealt with respecting this property about 200 years ago; his ancestor of that day actually, by compulsion, bought the fee from the Commissioners of the Long Parliament, and thereby enfranchised the estate, paying heavily for it. Mr. Shipperdson showed me the deed of enfranchisement a few days ago. At the Restoration the purchase was set aside, and neither the owner of the estate nor his representatives ever got one sixpence of the purchase money back again. The family have gone on renewing the lease in the old way ever since.

1871. If I correctly caught your view of that document in Hutchinson's History, and other documents which you thought corroborated it, the calculation was, that the lessee had an interest equivalent to five years purchase, as we might call it, for the expectation of renewal. Is that so?—Yes.

1872. Then any plan, if such a plan should appear,—I am not saying that it will,—which should secure to the lessee five years enjoyment of the estate after the expiration of his term, would at least meet that calculation?—No; not so.

1873. The calculation you have pointed out to influence our opinion is an old calculation of this kind, which assigns five years purchase as the full amount of the value of the expectation of renewal; is not that so?—Yes.

1874. Then,

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1874. Then, if any plan were adopted that, at the expiration of the term now in lease, were to give the lessee five years enjoyment of his estate, at any rate that calculation would be met?—I beg to submit that it would certainly *not* be so. The having a mere continued possession for five years at the end of a term, in the case of a lessee anxious to renew, would be a very different thing from having five years value allowed and paid to a lessee who either could not or would not renew, as it appears was formerly the case.

1875. Then, if the five years additional time would not do it, would the advance of five years in the shape of money do so?—If the amount of five years purchase, as the value of the tenant-right of renewal, was taken into consideration in any plan that should be proposed for altering the tenure of the property, it would be an important feature in the proposed arrangement, and would tend much to bring the lessor and lessee to terms of agreement.

1876. This, too, is given, is it not, as the entire value of the expectation of renewal?—At that period it seems to have been considered so, and it would still very nearly, I should say, meet the fair and reasonable expectations of the lessees upon the subject of the value of their customary right of renewal.

1877. This is the sentence: "And whereas it further appears that the respective tenants "of the said land, their heirs and assigns, have had a right to renew their leases from "twenty-one years to twenty-one years for ever, paying three years fine; and that accor- "dingly the dean and chapter did from time to time renew leases unto their said tenants, "and valued their tenants interest in the premises at five years purchase and upwards after "the expiration of their said leases; it was therefore resolved by the committee that "they should have an abatement and reprize in respect of their lands and every part "thereof, in pursuance of the same order and decree"?—Yes; that is the clause in the document to which I alluded.

1878. I understand you to say that the Commissioners sold some parts of this property and enfranchised them?—Yes.

1879. And Mr. Shipperdson bought some?—Mr. Shipperdson's ancestor purchased the fee simple of his estate.

1880. Afterwards it was found that they had not a power to sell, and Mr. Shipperdson lost his money?—Yes; upon the Restoration all the acts of the Long Parliament were set aside.

1881. And then he had to renew, as he had done before; losing the purchase money and paying the fines again upon renewal?—Yes; and so the family have done ever since.

1882. Have you any evidence to give with reference to minerals, as applicable to this question?—The only observation I have to make upon this subject is this: that the rights of working the minerals, of wayleaves, and all such rights, being most fully reserved in our leases, if it should come to a matter of bargain between lessor and lessee, which we hope it will, the fee simple of the property, being liable to these reservations, will not be worth near so much money as it would be if these reservations were not made.

1883. Would it be possible for the Church to give up their wayleaves?—No; quite impossible, and not desirable. No reasonable lessee would require it, or think of it for a moment.

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John Gregson, Esq.
T. H. Faber, Esq.
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JOHN GREGSON Esquire and T. H. FABER Esquire called in, and further examined.

1884. (*To Mr. Gregson.*) Will you proceed with the statement you were making yesterday?—There is a point I should wish to mention respecting the reserved rent being taken into consideration upon the renewals; I think we did not quite clearly understand each other upon that point. The reserved rent in the diocese of Durham is taken into consideration, in the renewals, in this way: When the seven years fine is set (taking, for example, the case of a twenty-one years lease), the bishop's and dean and chapter's agents deduct the year and a half's reserved rent from the year and a half's rack rent on which they set the fine.

1885. Supposing it 100*l.* a year, and the reserved rent 2*l.*, would they deduct the 2*l.* from the 100*l.*?—Yes.

1886. And they would add the half to the 98*l.*?—Yes, precisely. They would add 49*l.* to the 98*l.*,—that is, one half year's rack rent, minus half a year's reserved rent,—making the price altogether 147*l.*; so that, in fact, the lessor receives in twenty-one years the benefit of only sixteen and a half years reserved rent.

1887. Do you not pay the reserved rent year by year, or do you only pay the reserved rent at the time of the fine?—We pay it year by year; but when the fine is fixed every seven years, one and a half year's reserved rent, being deducted from the annual value or rack rent on which the fine is set, leaves the lessor the enjoyment only of sixteen and a half years reserved rent in twenty-one years, the septennial fine being calculated as set upon the basis of one and a half year's full annual value or rack rent. Mr. Faber's calculation, which he made and put in yesterday, must therefore be taken as exclusive of the reserved

reserved rent. A question was asked yesterday as to a mortgagee, "What would a mortgagee do in case it should be determined not to renew the lease?" This is a very important question, but perhaps it is not so vitally important to the mortgagee (although very important to him) as it would be to the unfortunate mortgagor. In our diocese of Durham a very large portion of the lessees belong to the yeomanry class of society, and in that class of lessees more particularly it is well known there are a great many who have their estates very considerably mortgaged. Now every man of business in the diocese perfectly well knows what would be the effect in hundreds of cases of not renewing the leases, or of insisting upon any of the impracticable plans which have been proposed by certain parties; the insisting upon any one of which (as being perfectly impracticable) would be equivalent to a direct refusal to renew. The effect in either of these cases would be this: the mortgagee would immediately call in his money; the mortgagor could not by any means raise sixpence of it; the mortgagee would take possession, and would turn out the mortgagor and his family. These poor people, whose fore-elders have in many cases held the property for some generations, and who have always lived in respectable and comfortable though not in affluent circumstances, would thus immediately be turned out upon the world as paupers, or at all events as day labourers; that would be the immediate effect, in very many cases, of running the leases out.

1888. Do you say that the mortgagors could not raise money on the security of their lease?—Certainly not; it would be impossible. The mortgagee would endeavour (as Mr. Faber has stated) to get as much as he possibly could out of the land before the expiration of the term to pay himself,—to get back as much of his money as he could before he should lose the property; and this he would effect at the cost (to the lessors) of the ruin of the land.

1889. Have you stated how near it was the practice of such mortgagees to go to the full value?—Mr. Faber, I think, stated that in many cases a mortgagee would advance to the amount of full two thirds of the market value.

1890. Do you mean two thirds of the market value of the interest which the mortgagor had?—Yes, of the interest which the mortgagor had, which is equal to the general proportionate amount in value of advances by way of mortgage on freehold security.

1891. Do you mean, according to the interest which the lessee had, is the advance would be made to a person who had the fee?—I mean that two thirds of the value of the lessee's interest would (if there was no particular objection to the party borrowing the money) be advanced, in general cases, as readily as two thirds of the value of a freehold security.

1892. In proportion to the interest each party had?—Yes; in proportion to the market value of the respective estates.

1893. For instance, if the market value of the fee simple estate was thirty years, a mortgagee would go to twenty years purchase?—Exactly so.

1894. If the market value of a leasehold estate was twenty-one years, he would go to fourteen years?—Yes, exactly so. There was also something said about bringing an action against a lessee who should treat the property in the way I have just mentioned,—that is, ruin the land. With great deference, I should submit that an action against the party in that position would be of very little use. A ruined man would be a very unsatisfactory party to bring an action against, upon any occasion or for any reason: and most undoubtedly ruined the lessees in very many cases would be.

1895. Would not the action be brought against the mortgagee in possession?—The action would certainly be brought against the party in possession; but the mortgagees in many cases would be ruined as well as the mortgagors.

1896. The question proposed supposed the case of there being such a breach of covenant as to involve a forfeiture; how would your answer apply to that?—There are no covenants, I think, in our leases, upon which such an action could be brought, or a forfeiture (unless in a very extreme case) be incurred. We alluded yesterday to six different plans that had been circulated and published; and, as I have already said, I am convinced that not one of these plans could be generally acted upon in the diocese of Durham. All of them would be found equally impracticable. With regard to Mr. Bethune's plan there was, however, yesterday a little difference of opinion. Mr. Faber was under the impression that by Mr. Bethune's plan a leasehold for years would be charged forty-six per cent. So far as we are concerned in the diocese of Durham, I think this would not be quite the effect of Mr. Bethune's plan; because Mr. Bethune's plan, if I rightly understand it, makes the present amount of charge upon the property by way of fine the basis of calculation for the amount of future annual rent.

1897. Does not Mr. Bethune's plan make a difference in the different dioceses, according to the market value of leasehold as compared with freehold property in the same diocese?—By taking the amount of fine hitherto charged in different dioceses as the basis of his calculation, I think he does make this difference.

1898. When you speak of six plans that had been circulated, do you allude to a paper that has been circulated by Mr. Grey, as secretary to the Church Leases Committee?—I do.

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1899. And do you there refer to the summary of the plans contained in that paper?—I do.

1900. Does not Mr. Bethune assume the fine to go on as it has gone on before, and then making a comparative statement between the market value in one diocese and the other; taking Cumberland and Durham, and places where the market value is high, and making such and such additions in those places, and twice as much in other places?—Yes; that was my impression of the plan; and upon that principle I should quite agree. If Mr. Bethune had gone on to take our customary right of renewal into consideration, then I should not have found fault with his plan.

1901. Does not Mr. Bethune's plan do so?—I cannot find that it does.

1902. Does he not take in the market value?—Yes.

1903. Whatever the customary right of renewal may be is evidenced by the market rate at which your leases sell. They sell upon, more or less, the certainty of renewal. If the right of renewal has been held to be so absolute, will it not appear in the market price?—Yes, it does so, undoubtedly.

1904. In that shape the right of renewal would enter into Mr. Bethune's calculation, would it not?—In that way it certainly would do so. I have not before sufficiently understood this part of Mr. Bethune's plan.

1905. This was part of the statement of Mr. Bethune's plan: "The witnesses examined "before the Committee on Church Leases in 1838 stated, that in Cumberland a lease of "this kind might be sold for twenty years purchase, and that freehold land is there worth "about twenty-eight years purchase. Assuming this rate of interest, one twenty-eighth "(which is rather more than three and a half per cent), it appears that a freehold encum-"bered with the septennial payment of one and a half year's purchase is very nearly worth "twenty-three years purchase. Hence three years purchase is the sum to be given for the "right of perpetual renewal on the same terms; and an equivalent for the single payment "of three years purchase is something more than one tenth of the annual value to be "added in perpetuity to the reserved rent. Thus an estate worth 105*l.* per annum, now "held for twenty-one years on a reserved rent of 5*l.*, and renewed every seven years on "payment of a fine of 150*l.*, would be turned into a perpetuity, subject to an annual pay-"ment of 15*l.* and a septennial payment of 150*l.* In Sussex freehold lands are said to be "worth thirty years purchase; and a Church lease of twenty-one years, renewed every "every seven years on payment of one and a half year's purchase, sells for eighteen years "purchase. The value of the encumbered perpetuity, at the rate of interest, one thirteenth "(three and one third per cent.), is about $24\frac{3}{61}$ years purchase. The difference between "this and the market value of the lease is six and three sixteenths years purchase, which is "equivalent to an increase of about one fifth of the reserved rent; twice as much as in the "former case." Does he not there make a difference between the increase in the North and the South to be twice as much?—Yes, according to that extract it appears he does.

1906. Has he not then taken the customary right of renewal into consideration?—He has done so, if he is prepared to give the lessee the benefit of the market value of his lease. But still I gather, from what has just been read of Mr. Bethune's plan, that he still in seven years adds 150*l.* to the amount to be paid by the lessee.

1907. Mr. Bethune's plan would have a reserved rent of 10*l.* a year, to be added to the present reserved rent, and then the fine to go on as before; the 10*l.* a year would be 10*l.* on the 100*l.*, which would be for the right of perpetual renewal?—That would be ten per cent., in addition to the amount which has been previously paid. Supposing that to be so, there would not be much difference between Mr. Bethune's plan and the plan proposed by Mr. Faber; excepting, however, this most important difference, that whereas we propose something like this amount as the price of enfranchisement, Mr. Bethune only proposes to give us for the same consideration a continued leasehold tenure.

1908. He gives you a leasehold tenure; but does he not give a perpetual right of renewal?—Yes, he certainly does; but the property would still be subject to re-valuation.

1909. The Church would retain the fee?—Yes; and that principle of dealing with the property would not be any thinglike so desirable for the leaseholders as selling them the freehold. But, nevertheless, if that principle is considered to be more desirable for the Church, and if it could be effected upon comparatively reasonable and fair terms, speaking for myself, and I think I may also say for a great number of leaseholders, I may state that we should not object to treat with our lessors for the purchase of a perpetual legal right of renewal.

1910. The conversion of a fine into an increased reserved rent would in principle be exceedingly convenient in general, would it not; the terms would be another matter?—It would be, I think, a more convenient arrangement. But giving us a perpetual right of renewal would only be giving us by law what we claim to have by custom; we should not be benefitted in the least, because we already have the same control over the property which we should then possess, and we should be subject to the same revaluation as we are now; so that, in point of fact, we should not be getting any real value in addition to the interest in the property we already possess. But after all the agitation there has been on the subject, for myself I should certainly say that I would be glad to purchase a perpetual legal

legal right of renewal on certain terms; but of course I should not be willing to give so much for that perpetual right of renewal, the property remaining subject to revaluation, as I should be willing to give for the fee.

1911. The perpetual right of renewal would approximate more to the value of the fee, if there was granted a security against a charge for improvements until a given period; would it not?—An important feature in that arrangement would be the length of the periods at which revaluations should take place.

1912. What should you say to this, supposing there was to be only one revaluation in twenty-one years?—That would be the period which I should propose. If the period for revaluation was made every twenty-one years instead of every seven years, it would then make the arrangement much more practicable, and greatly promote improvements in the property.

1913. And what should you say if wood was not reserved?—That would also make it much more desirable for the lessees.

1914. At present there is no arrangement at all which enables a lessee, with any comfort, to plant upon his estate?—Certainly not. No lessee, except upon a very small scale, for the purpose of ornament about his house, would think of planting. The lessee in such a case would not even have the control of the plantations; the lessor's woodman would attend to them.

1915. Have you any native woods in Durham?—On the banks of our rivers and little streams, we have; but the general character of the country (at least the eastern part of it) is not such as to grow wood particularly well. The common larch wood grows to a certain size very well, but it does not appear to thrive beyond a certain period. Plantations, however, upon freehold properties in this district have become of considerable value for colliery and farm purposes, and similar plantations might certainly be made, with great advantage, upon some of the church leasehold estates.

1916. They must be planted, must they not?—Certainly.

1917. They are artificial plantations, are they not?—Yes; we have no native woods, such as in the Midland Counties are called "flat woods."

1918. Is the flat wood upon the table land?—Yes. There is another point in respect of which we should be entitled to some consideration, and certainly it is a point which in the ordinary purchase of a fee simple estate would be one entitling a purchaser to a very great reduction in the price; the point I allude to is this: If we purchase the fee, we should still, I conclude, be subject to the reservations in respect of mines, the power of working them, the rights of wayleave, and all the other reservations of this description; a circumstance which, in the ordinary purchasing of freehold land, would strike off a very considerable sum indeed from the price.

1919. That is now deducted before the finable value is ascertained; is it not?—Our leases are all subject to those reservations, and the value of our leases is doubtless affected to some extent by these reservations

1920. Would it be quite impossible to do away with those reservations?—Yes; the Church must, I think, retain these reservations, even supposing the surface to be enfranchised.

1921. Would not the land let annually for less, in consequence of being subject to those reservations?—I do not know that it would let for much less annually. So long as the occupation is not interrupted, the land is not affected by these reservations, but then we are continually subjected to inroads for the purpose of carrying on these works, and in some instances the colliery operations have cut up farms into mere strips of land.

1922. Is there a wayleave reserved in every case of such property?—Yes.

1923. Is there any opportunity of comparing cases, in reference to value, where such wayleaves exist, and where they do not?—Not in our district. These reservations are always made in every instance, whether there are mines under the property or not.

1924. If the property is actually cut up in consequence of these wayleaves being used is not an allowance made to the occupying tenant?—Yes. The coalowner, or the party who constructs these works has to pay the occupier; and that payment is generally made upon a very liberal scale. This compensation is all very well, so long as the operations go on; but these mines and operations may be, and are in the course of time, abandoned, and then a clause contained in most wayleave and colliery leases is all there is to rely upon, namely, a clause providing that the land is to be restored to its former state, but which is generally nugatory, from the impracticability of its being fulfilled. In ordinary cases of buying a freehold estate these circumstances would make a considerable difference in the price; and they do in fact make such a difference in our county, in cases where freehold land is sold subject to such reservations.

1925. Is there any allowance for that uncertainty hanging over you in the renewal of the lease?—No; these circumstances are not considered in the setting of fines; the reservations have always been made, and are consequently considered as quite matter of course. They have been made much more general and extensive of late years. An eminent conveyancer having been employed to draw these reservations, which he did with his usual skill, so as, I believe, to cover all cases. There has been no difference in the renewal fines; and it would not be a subject which, I think, the lessors could be called upon or expected to consider

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consider in the renewal fine. It would only become, as I think, a subject of consideration in the case of the lessee becoming the owner of the fee, instead of remaining the lessee.

1926. What is the price of renewal in your diocese for seven years?—One year and a half.

1927. In Cumberland it is a year and a half?—I believe it is.

1928. Are there no wayleaves?—No; I believe there are no mines of any consequence.

1929. Do they not ask as much then when there is this liability arising from wayleaves as when there is not?—Yes, it would appear so; but different dioceses seem to vary very much in the terms of renewal. In any arrangement which might be proposed, if it were contemplated to give the lessee the fee, these circumstances ought to be matter of consideration. I am not prepared to say to what extent the price of the fee should be reduced in consequence of these reservations; that would have to be inquired into, according to local circumstances. If it should not be proposed to give the lessee the fee, but to continue the system of renewal, the consideration of these reservations would then be less important; but I should submit that the terms which Mr. Faber has put in applying to the purchase of the fee ought to be very much lowered if we are still only to have a leasehold tenure, and to be subject to revaluation. I think I stated yesterday that my late father purchased land of leasehold tenure to a great extent, and that I have myself added to the property by a further purchase of land of the same tenure. With reference to this property, I think it right to state that neither I, nor I should say the great body of the lessees in our diocese, make any difference in our management of these lands, as to draining or any other improvements. It is a fallacy to suppose that any difference is now generally made. A few years ago there might have been more difference; but during the last few years there has been such a stride taken in agricultural improvements, that unless landlords (and we consider ourselves, and are in fact for all these purposes in the position of landlords)—unless we had gone on with the spirit of the age, we should not have got sub-tenants to live upon these farms.

1930. If you had freehold and life land and leasehold intermixed, and had to make improvements in the way of building, would you not rather build upon the freehold?—No doubt I should.

1931. Have you not given an instance of Mr. Shipperdson having built upon leasehold when he had freehold land close to it?—In the case I referred to it was not the present Mr. Shipperdson who built the house; it must have been his ancestor some generations ago. But certainly in these days any prudent man would put the buildings on the freehold, if he had an opportunity of so doing; but at the same time if there should not be such an opportunity, I for one would not scruple to build upon the leasehold. In my own case, I have a leasehold estate held for three lives, an estate of some value; it consisted originally of two rather large straggling farms; it is near the town of Sunderland; and by converting the two farms into four, and being at the expense of putting up two entirely new sets of farm-houses and farm-buildings of every description the estate is very much increased in value. All this has been done upon the leasehold, there being no part of the estate of freehold tenure. I may perhaps also now mention that upon a very poor part of the leasehold property, a part of the estate which I mentioned yesterday as having been bought by my father about twenty-five years ago, at sixteen or eighteen years purchase, a very low rate, in consequence of the extreme poorness of the land, and its unfavourable situation, it so happened that before this agitation recommenced there were in operation improvements to a greater extent than upon any part of my freehold property. I have not yet taken the alarm so much as to stop these improvements, but I shall not, I must say, until this question is satisfactorily settled, be inclined to carry on these improvements to any greater extent. Perhaps we scarcely need expect that an enfranchisement by way of money payment will be adopted; in which case there is another point we ought to bear in mind, that is, that we should then, I conclude, only have the fee subject to a rent-charge. And (as all men of business are aware) such an estate brought into the market, subject to a heavy rent-charge, is a very much less marketable property than an estate free from any such incumbrance. I should not mention this as a point to be considered as one requiring a very material difference to be made in the sum to be paid by the lessees for enfranchisement; but it is one of the points that should induce the parties dealing with the lessees in this way to treat them a little more favourably.

1932. £100 a year, with a rent-charge of 20*l.* a year, is not worth near so much as a freehold of 80*l.* a year; is it?—No; I should say it certainly is not.

1933. May not that depend upon the views of parties? Do not some gentlemen like a large district of country to sport over, having a larger territory, without reference to the actual value?—That would not apply to our country; in our coal district there is not much sporting.

1934. But, to a greater extent, is there not a certain territorial dignity and influence arising from occupying a large surface, as placing the party in the apparent possession of a large estate?—Some men may think so, but I do not think that feeling is general.

1935. Is it not the fact that small properties in proportion sell for a larger sum than larger estates?—Perhaps so; and this may easily be explained. Frequently a farmer, if he can command the means, will buy a small property, because he likes to have land of his own, clear of any question with a landlord; and upon this very principle I have no doubt that

that there are some few lessees of the Church who would enfranchise their farms almost upon any terms. Some few wealthy individuals who dislike dealing with the Church, and who are very much vexed at having the Church valuers sent over their property periodically,—such persons, being wealthy, would give almost any money to enfranchise. And one great cause of fear which the general body of the leaseholders have is, that the valuations of such parties may possibly be taken as the basis of a general plan. In our diocese I should say that there is very little of this feeling; I believe that the great body of lessees in our district would have been perfectly willing and glad to have gone on dealing as hitherto with our old lessors if this question had not been so constantly agitated. I am sure I for one should have been glad to have done so, as I have never had the slightest difficulty in effecting renewals upon the usual terms, and without the least unpleasantness. The feeling I have mentioned, of an extreme anxiety to enfranchise at almost any cost, is not, I am certain, general in our diocese. The great body of the lessees are, as I have before said, amongst the yeomanry class, and could not possibly afford to give any extravagant price. They occupy a few acres, to the extent perhaps of 100, 120, or 150 acres, living upon these farms as their fore-elders have lived, and bringing their families up in respectability and comfort, though not in wealth.

1936. And these are not parties, you think, who would be willing to give very large sums for the fee?—Generally speaking, even if they were willing, they could not do it; their circumstances would not enable them to do it; and therefore it is I speak so confidently as to the impracticability of any of the plans to which we have alluded being carried generally into effect in the county of Durham. I am glad to have an opportunity of mentioning this, because I think it very probable that parties who are so very anxious upon the subject may place extravagant offers before this Commission; but it is a selfish and wrong view for such parties to take of this question, and in taking such a view they must be looking solely and entirely to their own individual cases. They may make propositions of this description before this Commission, and perhaps some may already have done so; but any such extravagant terms would be found, as a general measure, to be perfectly impracticable, and if arbitrarily imposed could only be followed by the ruinous effects I have already mentioned. I may be allowed perhaps to state, that generally speaking the lessees in our diocese would very much prefer a total enfranchisement by money payment or by way of rent-charge, if it could be effected upon practicable terms; but at the same time, as I have before said, I believe that a perpetual legal right of renewal, at a comparatively trifling cost, would be exceedingly acceptable; and I may also perhaps be allowed to express, not only my own sentiments, but I am sure also the sentiments of a great body of the lessees of our diocese on this point, namely, that we should be most willing and desirous to give the lessors every farthing which we possibly could give in fairness to ourselves, either for enfranchisement or a perpetual legal right of renewal. I am sure there is no one who would more deeply regret than myself to see the Church of England injuriously affected in any way, or by any means crippled in her resources; and I think there would be a very general feeling to that effect. But we should, nevertheless, think it, and not only think it but feel it, a terrible hardship and cruelty if the legislature should aid in taking the control of this property out of the hands of our old lessors, with whom we and our progenitors have for centuries dealt without difficulty, and place it in the hands of other lessors, with whom we could not deal at all.

1937. Do I understand you that, generally speaking, these small lessees would not find it very easy to raise money for the purpose of enfranchisement; that is, in gross sums?—I think probably they would not. If enfranchisement were proposed, it would, as a general measure, be more practicable, I think, by way of rent-charge.

1938. Or at any rate, if upon gross sums, it must be optional?—Doubtless if enfranchisement were proposed, and if it were consistent with the convenience of the Church, it would be a great convenience to the lessees to have the option of effecting it by money payment or rent-charge. As a lessee, and as a mere matter of pounds, shillings, and pence, I individually should certainly much rather enfranchise the land at once by a money payment, and have done with it; it would make my property much more valuable than any other mode of dealing with it; but as a friend of the Church I must with deference suggest, and as a lessee I must admit, that it would not be so desirable a measure for the Church as enfranchisement by way of rent-charge.

1939. You mean that it would not be a desirable measure for the Church to part with the fee?—To part with the fee otherwise than by way of rent-charge. There is, however, one party in the state very anxious to see the Church owners in possession of all this property, and that party is comprised of the bitterest enemies of the Church; they openly tell us, "Oh, we very much wish to see all you lessees put out; we wish to see the Church in possession of all these lands, because we know very well that in such a country as this a corporation such as the Church is would never be allowed to make a monopoly of such an immense extent of country as the Church possessions are." Such are the views of that party. We, the lessees, as we are at present, or tenants in fee as we should become, paying our rent-charges to the Church (if enfranchisement by way of rent-charge should be carried into effect), now stand, and should in that case continue to stand, as a sort of bar between the party I have mentioned and the Church; and that party cannot *now*, nor could they *hereafter*, (if we should become tenants in fee as has been mentioned,) get at the Church's

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possessions without first attacking our interests and our pockets, any more than the Scotch in former days could reach the church of Durham without first breaking through the spears and battleaxes of our forefathers.

1940. Have you looked at what proportion the Church lands of Durham bear to the whole land of the county?—No; I wish I had brought a map of the county with the Church land marked upon it.

1941. Does such a map exist?—I am not aware that it does, but a general outline of the property would easily be marked upon the county map. However, the extent of the Church property in Durham is stated, I believe, in Mr. Davison's evidence before the Committee of the House of Commons.

1942. Is there much Church property in Northumberland?—There is some considerable Church property in Northumberland, but not anything like the proportion which we have in Durham. Northumberland is a large wide-spread county, and the tenure there may generally be said to be that of freehold.

1943. Does not this Church property extend into Yorkshire?—Yes, there is considerable property about Northallerton and elsewhere in Yorkshire.

1944. Have I understood that you see no objection to the whole of the revenues of the Church, whatever it is, being turned into the form of a rent-charge?—I do not, always supposing that a perpetual legal right of renewal could be obtained upon comparatively reasonable terms, as compared with the terms which Mr. Faber has suggested as the terms of purchase for the fee.

1945. I am not adverting to the subject of terms. Suppose certain terms adopted; you see no objection, instead of fines, that the whole revenues of the Church in future should consist of rent-charges or reserved rents?—I see none.

1946. Would not that necessitate a valuation every twenty-one years?—Not necessarily, I think.

1947. That involves the question of terms, does it not?—Yes.

1948. Have you found considerable imprudence in the parties who have to pay fines, in regard to providing for them?—No doubt there is imprudence in many instances.

1949. Mr. Davison states that it would be impracticable to enfranchise the whole county of Durham on one uniform scale?—I should agree in that view; Mr. Davison's opinion, I believe, is quite correct in this respect. A local inquiry by a body constituted like the Tithe Commission, I think, would be absolutely necessary. The district, for instance, of which Mr. Faber spoke more particularly yesterday in his evidence is very different from the district in which my property is placed, which is about twenty miles distant. I am in the heart of the pit district, and the district of which Mr. Faber spoke more particularly is quite in another direction As to the market value, however, I think the Stockton district and the pit district are very much the same; there is no difference in this respect. With respect to the leaseholds for lives, which constitute a very important part of the property, I should suggest that the same plan should be adopted as that which has been proposed by Mr. Faber with respect to leaseholds for years, that is to say, a plan based upon the same principle. These leaseholds for lives have always been held upon the same perfect confidence of renewal, and continue to be so. A neighbour of mine in the country in the autumn of 1847 bought a leasehold for lives at twenty-six years purchase, the table value of the lease certainly not being more than seventeen or eighteen at the time. There has always been the same perfect confidence of renewal with respect to this property; and, as I think was stated yesterday, the average amount hitherto paid in respect of these leaseholds by way of fine will be found to be, as Mr. Faber stated, about twelve per cent. upon the rack rent; but that is quite an outside calculation; I believe nearer the mark would be somewhere between ten and twelve, about eleven per cent. I may here observe that a life lease obtains more money in the market; it is a much longer tenure upon the average.

1950. Supposing for a moment that any system of leasing is to be kept up, it would probably be desirable to turn leases for lives into leases for years. There are various modes proposed for doing that; I am going to point out one to you. Supposing, without interfering at all with the existing lives, a rule was laid down that when application was made for an additional life, the answer should be, "We will renew, and we will give you the same terms you would get if you put in an additional life, only we will calculate what the number of years value that the life is that you want to put in, and we will give you a lease for years to that extent," and *that*, after having that operation gone through for the three times, would bring all the leases for lives into leases for years. Do you see any objection to that plan?—No, I do not at present see any objection to that plan, provided a perpetual legal right of renewal in this way was obtained.

1951. Would not a person be desirous to put in the life of one of his own family in preference to a younger life?—I should think not.

1952. Would there not be a certainty, if you could convert leases for lives into leases for years?—Yes, that would be one result of the change.

1953. Would not the only difference be this, if you wished to put in an inferior life, for the sake of the party enjoying the interest during his or her life, that you would then no longer

longer be able to insure that object?—You could not certainly do that. But I do not think that such a course is much practised; it may be done occasionally.

1954. Might not a father wish to put his daughter in, not caring about anything afterwards, as the means of providing for her for her life at all events; and are there not instances of that kind?—There may be some few cases, but I do not know of any such myself.

1955. The system would be favourable to the lessees in this respect, would it not; they would always propose for calculation the best life they could think of, when they came to consider the term of years to be granted?—Yes; in this respect it would be favourable to the lessees.

1956. So that they would have the renewal terms calculated upon the best life that could be imagined?—Yes; and I conclude there would be no re-valuation until the lease came in course of renewal.

1957. Is not the life of a female child ten years of age the best life that can be put in?—I am not aware of that.

Mr. Faber.—I have made inquiry into that subject, and I have found that I could get an insurance effected cheapest by selecting a girl between five and six who had had all the complaints incident to childhood; after great difficulty I found one answering that description, and the office accepted her. Shortly afterwards a life dropped in the same lease, and the same office who accepted that one required the same thing. I could not find another who at that early age had gone through the various disorders, such as measles, small pox, hooping cough, and scarlet fever; and they took one that had had them all, except one, and that was scarlet fever.

Mr. Gregson.—It is a common practice for lessees who hold land on lives to put in members of their own family, especially children. Some of my own children are in my life leases. I should not put in a sickly child; but if a child is healthy and likely to live, there is this advantage in putting in one of your own, you are always sure to know whether such a *cestuique vie* is living; when the *cestuique vies* are strangers, it is a constant subject of inquiry and anxiety to know whether they are living or not.

1958. Is it not another consideration that you do not know how they may conduct themselves, being strangers, so well as you do if they are your own children?—Yes, certainly, there is that consideration also. Supposing also that a child so put in dies in childhood, the parent then has one child less to provide for, and therefore the renewal of the lease falls less onerously upon him.

1959. With diminished means of providing, you have less children to provide for?—Yes; or rather, having one child less to provide for, the early payment of a renewal fine is a matter of less importance. As the subject of children has been mentioned, if you will allow me, I will mention my own particular case. It is the case of very many other lessees, and will be a case of extreme hardship if any of the plans suggested should be imposed upon us. My father, in the perfect confidence of renewal, and never having the slightest doubt of it, purchased, as I have before said, largely of this tenure. He was exceedingly anxious about it when the First Report of the Ecclesiastical Commissioners appeared in 1835 or 1836, but that anxiety was entirely removed by the Report of the Parliamentary Committee in 1839. He died shortly afterwards, leaving the whole of his property (with the exception of an outlying freehold estate) to me as his eldest son; but this property so left to me was heavily charged with provisions for numerous other members of the family. To the whole of these charges my property is subject, and to meet them I have very much to depend upon the leasehold estates. If such terms as have been mentioned by some parties should be imposed on me and other lessees similarly circumstanced, it would fall most heavily upon us. At my time of life, being a middle-aged man, if I should even live to the ordinary length of human life, I should manage to avoid inconvenience by running the leases out; they would probably last my time; but this course would entirely alter the circumstances of my children, it would deprive them of the place in society which they would otherwise have occupied. I should not have mentioned this case of my own, because we know that legislation cannot be governed by an individual case; but it would be the same with very many others who possess easehold property. Some would not suffer so much as I should, as I have (perhaps it may be called) the misfortune to possess largely of this land. I have above 2,000 acres of leasehold land, comprised, I believe, in about twenty leases.

1960. Are the fees heavy on renewing the leases?—They are very moderate. I believe in our diocese the office charge for the renewal of a lease is only about 6*l.*

1961. Is the charge equal, whatever the amount of value?—I have no means of answering that exactly, but my impression is, it is equal. I do not think there is any per-centage on the fine given.

1962. Is not that sum of 6*l.* a heavy charge upon a small holding?—Yes, upon a small holding no doubt it is; it is one circumstance which would make a re-arrangement of the property very desirable to smaller leaseholders.

1963. Do these parties insure very much?—Not, I think, generally, unless in the case of a mortgage or strict settlement, and then the trustees are bound to insure. I do not in all cases

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cases insure. Some persons think if you have a great number of *cestuique vies*, it is best to be your own insurer; that is, if you are ordinarily prudent.

1964. In the case of mortgage would not the mortgagee make it a condition that there should be an insurance?—Yes, generally; I have seldom seen a mortgage in which that was not enforced; it is generally one of the first trusts of a mortgage deed.

1965. You can inform us, as you are an extensive owner of this description of property, whether there is any great confusion in the boundaries between leaseholds and freeholds?—I am inclined to think that by the skill of the bishop's and the dean and chapter's agents, and especially of Mr. Davison, there is much less of difficulty in this respect than there formerly was.

1966. Do you mean to say that the evil still exists, although it is diminished?—I cannot speak positively as to this point. I am inclined to think that there is not now any difficulty in this way in our county, although it would be impossible for a person, from the description of parcels in the leases, to say where the lands lie.

1967. Do you not think there would be great advantage in having the boundary settled at once and for ever, by having the boundaries set out?—Certainly, where any such difficulty does exist. But although the descriptions in the leases are so perfectly inapplicable, yet there is with us no real difficulty in practice. In the case of the dean and chapter leases, there is now a neat little plan of the premises endorsed upon the lease, to provide against difficulties of this kind.

1968. Then you cannot say that leases of that kind do not contain a sufficient description of the property?—No; in what I stated, I referred to the words of description only.

1969. Knowing that in other parts of England there is a great confusion, and that if attempts were made to separate them litigation would take place, which would be to a great extent ruinous, would it not be desirable, in case any general settlement should be made, that there be once and for ever some local inquiry that should settle it?—Undoubtedly so; wherever any such doubt or difficulty exists, it would be most desirable. With respect to turning leaseholds for lives into leaseholds for years, there is another point to be considered; namely, that it would make a most complete alteration in the property as to its descent, and it would also make all leaseholds for lives which are now a freehold tenure, and not subject to legacy and probate duty, subject to those duties. If any plan could be adopted of having a periodical valuation of leaseholds for lives without altering the tenure, it might avert this difficulty; but perhaps there might be some enactment which would provide for this. It ought to be remembered that the imposition of the legacy and probate duties would be a considerable additional burden upon such an estate, and also that its descent by the law of inheritance would be changed.

1970. That could be provided against, could it not, by the parties who make their wills?—Yes.

1971. It would, however, change the property from leasehold for lives, which is considered as a freehold, into personalty?—Yes, it would; and it would consequently go to the executor instead of to the heir.

1972. Would the property descend in default of a will in the same way that it would now under those circumstances?—No, it would go in a different course. As it is now the property would descend to the heir; in the case of the change proposed it would descend to the executor.

1973. Or to the special occupant?—Our life land goes to the heir.

1974. In case these leases for lives were altered to leases for years, then the estate, in the case of there being no will, would go to the executor, whereas while it remains upon lives, it would go to the heir; is not that the effect of what you state?—Yes, it is so.

1975. Are these leases for lives subject to the ad valorem duties on sales?—Yes, certainly.

1976. Will you read Mr. Bethune's plan in detail, and state any circumstances that occur to you upon it?—I should wish to state that it appears to me at once that it is inapplicable to our case, inasmuch as this plan of Mr. Bethune's would make us pay as much for the continued leasehold tenure as we think we ought to give for the fee. That would be the point on which we should completely differ. For a continued leasehold tenure still subject to revaluation, Mr. Bethune would be charging us the additional ten per cent., which we consider is quite as much as we ought to be called upon to give, or could give, for the fee. It would be matter of calculation, (supposing that principle to be adopted,) "if the fee is "worth ten per cent., then what ought the less worthy tenure to be valued at?"

1977. Do I understand that the being subject to a revaluation would make the difference?—Yes; that circumstance would certainly form an essential point of difference in the value to us of enfranchisement as compared with only a continued leasehold tenure. But if we could agree upon a principle I think we should be able to agree upon the terms.

1978. Will you read Mr. Bethune's plan, contained in a letter from the Home Office Chambers of the 4th of March 1840, to Lord John Russell, and state any opinion that you may form upon it?—If the Commissioners desire me to read Mr. Bethune's letter over again, and then to state my opinion upon it, I shall be glad to do so, but I fear the

view

view I have already taken and have just now expressed respecting the important point of difference between Mr. Bethune's plan and Mr. Faber's proposition must remain unchanged. At the same time I am quite prepared to say that I consider Mr. Bethune's plan as based upon a more just principle than any one of the other published plans to which I have in the course of this examination alluded.

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May I be permitted to add, that we feel exceedingly gratified by the way in which our evidence has been received, and that we beg to thank the Commissioners for the latitude with which we have been allowed to give evidence, and to express our opinions upon the subject.

Mr. Thomas Dobson Bleaymire examined.

Mr. T. D. Bleaymire.

1979. Where do you reside?—I reside at Penrith, and practised as a solicitor there for upwards of forty years, but I am now retired from the profession.

1980. We understand you have some information to offer to the Commissioners upon the subject of Church leases?—During the whole of my practice I have been in the habit of attending a good deal to the renewal of leases, and also occasionally to the sale and purchase of leasehold property. I had a good many clients who had leasehold property both for terms of years and for lives, and I have very frequently been called upon to treat with the secretaries and agents of the Dean and Chapter of Carlisle and the Bishop of Carlisle in the renewal of leases both of tithes and lands.

1981. What information are you desirous of affording the Commissioners upon this subject?—I am requested to attend upon this Commission with a view of informing the Commissioners upon what terms the leases of lands and tithes have generally been renewed. The Dean and Chapter of Carlisle have invariably during all my practice, and as long as I ever knew any thing about it, renewed these leases, when originally granted for twenty-one years, every seven years. Leases were renewed at the expiration of seven years on the payment of a year and a half's improved value, and the fine was calculated upon the valuation.

1982. Are you speaking of tithes now?—Yes; and also the same for land.

1983. Has any difference been made in that respect since the commutation of tithes?—Since the commutation of tithes there has been an attempt made by the Dean and Chapter of Carlisle to increase. They have given out that they would not renew their leases of tithes unless they were made upon the payment of a fine of one year and three quarters instead of one year and a half; those are within the last two years; some parties have acquiesced, others have stood out and have refused to renew, standing upon the customary mode of renewing the leases, that is, the ancient custom of the payment of one year and a half's value. And the dean and chapter alleged, as the reason for this alteration, that now, when a rent-charge was substituted, it was but fair that they should have a larger premium paid to them by reason of the low rate of interest; that they can only get four per cent. for their money, and on that account it is that they have required their lessees should pay them a year and three quarters in the place of a year and a half. That is only with respect to tithes; and they have made no difference on their renewal fines for the lands.

1984. Has there been any change in the principle of dealing with land or tithes, except that, within your recollection?—Not the least. The Bishop of Carlisle has always, I believe, had a year and a half's value from the lessee, but then he has also a good deal of leaseholds for lives as well as terms of years. The dean and chapter's are all leases for years. The Bishop of Carlisle has lands which are leased out by him for terms of twenty-one years, and others which are leased out by him for lives. The dean and chapter have houses in the city of Carlisle which are leased for the term of forty years; but those I am not much acquainted with.

1985. Have you any information to give as to the practice which may have prevailed in ordinary times?—I have understood the custom was at all times to have the leases for twenty-one years renewed at the expiration of seven years on the payment of a year and a half's value. The lessees both of land and tithe always considered that they were entitled to have their leases renewed on the payment of that fine of one year and a half. I have often heard them say that they looked upon their title or right of renewal just as secure as that of a copyhold tenant; that a copyhold tenant was entitled to have his fresh admission granted upon the death of his ancestor, or upon purchase; and that they were entitled to have their leases renewed from time to time every seven years.

1986. Within your recollection, has that renewal ever been refused?—Never refused; and never any dispute, except occasionally about the value, until within the last two years, when the Dean and Chapter of Carlisle have been claiming a quarter more. I frequently attended for a good number of years the chapter meetings. Formerly the prebends of Carlisle used to meet all the leaseholders every half year, when the leases were renewed; at that time they had the opportunity of talking with the prebends, and sometimes spoke of the hardship of the case, that the valuer had put a higher value upon the land than they thought he was entitled to do; but that was the only point in dispute.

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1987. Do you mean that the only disputed point was as to the sum upon which the year and a half should be paid?—Yes. Sometimes it was said the valuer had gone beyond the real value of the land or tithe.

1988. Was the improvement which might have taken place in the value of the land in the interval since the last renewal taken into consideration?—It would of course be taken into consideration by the valuer. If there was an improvement made he would charge so much more, and that often gave rise to disputes between the lessees and the dean and chapter.

1989. Then was the dispute as to how much the property had been improved?—The dispute was as to the rent; whether the rent had been increased by reason of the improvement, or not. I myself have a considerable leasehold property, it is fair to say, and I never have had any dispute with the dean and chapter, except with respect to the increased fines which occasionally they have made.

1990. Did you ever contend upon those occasions that you had made considerable improvements at your own expense, and that that ought to be taken into consideration?—I have; and I have also received upon one occasion an abatement. I had laid out money upon improvements, and at the following septennial renewal attended a chapter meeting. Dr. Vansittart was one of the prebends, and Mr. Goodenough was another; they heard all I had to say upon the subject, and they ordered Mr. Hudson, the secretary, to strike off 36*l.* 15*s.* 9*d.* I said they were going beyond the rack rent of the property. I had freehold property which my father, the former lessee, had not, and my freehold was let along with the leasehold. I said they had put too much upon it. That was the only time I ever had a reduction, and, certainly, then I urged the improvements I had made, amongst other things.

1991. Is there any particular custom of not taking into consideration the improvements for any length of time after they have been made?—None that I am aware of; it never came within my practice. I have read the examinations which were taken seven or eight years ago on the subject, and I see that is adverted to by Mr. Saul, a person better enabled to give evidence upon that subject than I am. I do not know of any case where any great improvements have been made, either upon leasehold property belonging to myself, or belonging to any of my clients.

1992. Can you speak to the market value of leaseholds compared with freeholds in your district?—Yes; I have paid a good deal of attention to that particular point. I have had extensive practice in conveyancing in the county of Cumberland,—in fact my principal business has been that of conveyancing and attending to landed estates,—and I can take upon myself to say that the average value of the freehold estates in the county of Cumberland for a great many years past has been from twenty-six to twenty-eight years purchase; it has varied, but I should say you might take as the average about twenty-seven years. At the same time, from local situation, it often fetches far greater prices.

1993. And what has leasehold sold for?—Leaseholds for a term of years, that is, twenty-one years, renewable every seven years, upon an average have sold for from twenty to twenty-two years purchase; that is, supposing there was a full lease; of course, if there was not a full lease, there was a consequent falling-off in price. I have known a leasehold estate fetch twenty-five years purchase.

1994. Have you any case where the lease was entirely empty, that is, where all the three new lives were put in?—No, I have not; but I have lately had occasion to attend to the subject of renewing in lives. I am a trustee under the will of a gentleman who died a short time ago, and he had the rectory of Penrith, a very valuable rectory. I am one of the lives in that; my life was put in in 1797, another life was put in in the year 1803, and from 1803 to 1844 no life lapsed, so that the lessee had forty-one years there. Mr. De Whelpdale, who was the lessee, was another of the lives; when he died, in 1844, there was a new life to put in. I applied to Mr. Mounsey, the bishop's solicitor, who attends to all the bishop's affairs in the way of renewal, to know upon what terms he would renew the lease. A valuation of the rectory had shortly before been made under the Tithe Act, and the rent-charge had been fixed for the tithe, but the apportionment had not been made; and it was agreed by both parties that the fine should be calculated upon the basis of the commutation, namely, upon the sum that the rent-charge had been fixed at.

1995. The rent-charge has not yet been apportioned among the landowners, has it?—It is not; but we know the amount that is to be apportioned. The calculation was based upon the rent-charge. Mr. Mounsey said that he calculated the fine at three years and three quarters, which amounted to 2,612*l.* 19*s.* 1*d.*

1996. Upon what is that three years and three quarters calculated?—Upon the five per cent. tables, the existing lives being sixty-one and forty-eight.

1997. Did he take into account the existing value of the lease, the one life being forty-eight, and the other sixty-one?—Yes.

1998. Was that the net sum in the commutation, or the gross sum?—There was a deduction from the gross rent-charge for the reserved rent and augmentation. The sum that the lessee of the rectory is henceforth to receive is 766*l.* 15*s.* 9*d.*

1999. That is the gross sum, is it not?—Yes.

2000. Is

2000. Is that the subject of poor's rates?—That includes poor rates and all the other rates. I thought the fine was very large, and I consulted Mr. Davis, who was an actuary of the Guardian Insurance Office, and he gave this opinion: "The required fine, upon the "supposition that the lessee was to be allowed five per cent. for his money, would be as "near as possible to four years purchase on the net annual value of the property, say four "times 699*l.* 9*s.* 1*d.*; but if the lessee were allowed six per cent. for his money, the "required fine ought to be three times 699*l.* 9*s.* 1*d.* At the present rate of interest allowed "on such investments, I am of opinion that the fine which ought to be required is about "three times and a half the net annual value, say 2,448*l.*, or thereabouts." So that there was a difference of a little more than 160*l.* between us.

2001. What was the result of that?—I paid the sum. I had no alternative. The will of Mr. De Whelpdale directed the trustees to renew all fines upon the accustomed charges.

2002. And did you renew upon the gross?—It was imperative upon us to do so after making the deductions before alluded to.

2003. What was the amount of the subtraction for the poor's rate, do you suppose?—I do not recollect exactly how much it would be. In the parish of Penrith we are rather heavily burdened with taxes; about 2*s.* in the pound to the poor rate.

2004. In fact the net value would be about 630*l.*, would it not?—Probably. I should imagine it would be something of that kind. Within the last six months another life has dropped, and this shows what a great difference there is in renewal fines calculated by the ages of the existing lives.

2005. What aged life did you put in in 1844?—We are at liberty to put in either a male or a female life, a young life or an old life. On that occasion we chose the person who was to come next into possession of the property, and he was of the age of twenty-eight.

2006. But you might have put in anybody else. You put in that life because it was more convenient?—Yes; it was done so that there would be no fine to be paid by him for his own life. Another of the lives has just dropped in the present year, the life which in 1844 was forty-eight has dropped. The two existing lives are sixty-five and thirty-two, and the bishop charges 1,744*l.* 12*s.* 8*d.* for a new lease at two years and a half's value.

2007. Is that alteration in consequence of the difference in the lives?—Yes; they are much younger lives than they were before. Mr. Mounsey writes me thus upon this subject: "Penrith Rectory.—The surviving lives being sixty-five and thirty-two, the fine "for adding the third life will be according to the terms of Mr. Davis, whose opinion you "sent me upon a former occasion, two years and a half's value, deducting the reserved "rent and augmentation—699*l.* 9*s.* 1*d.*, 699*l.* 9*s.* 1*d.*, and 349*l.* 14*s.* 6*d.*, making "1,748*l.* 12*s.* 8*d.*"

2008. Are these all upon life leases for tithes?—There is no distinction upon the renewal of a lease for lives of tithes or a lease for lives of lands that I am aware of; they are each renewable in the same way.

2009. Have you had any case of a lease run out?—I am not aware of any; in short it was for the interest both of the lessor and lessee to have the lives filled up, and they have always been filled up without much discussion or dispute. I never knew of any dispute except as to the value.

2010. Have you known of any instance of two lives dropping by accident or inadvertence, and not renewing?—No, I am not aware of any such case.

2011. In every instance that you are aware of, have there been two lives left in when a third was applied to be put in?—Yes, in every case I have been concerned in, and I have had a good deal to do in renewing leases for lives as well as years. I was only last month renewing a lease for lives in the town of Penrith. I agreed with Mr. Mounsey at once, we had no dispute about it; and these are the terms. It is an old public house, called the Old Crown, at Penrith. In July 1833 a new life was put into the lease, the existing lives being sixty-two and thirty-one. The bishop charged a fine of 105*l.*; the property being valued at 50*l.* a year. In the last month a new life was put in, one of the lives having lapsed, and the two existing lives being seventy-three and twenty-four, a fine of 90*l.* was charged; the bishop's secretary stating the sum was charged at two years and a quarter's value, and allowing the lessee six per cent., the property being houses. It appears the bishop makes a distinction between houses and land. He allows five per cent. on land and six per cent. on houses on account of the greater repairs necessary to be done to houses.

2012. Have you had anything to do with mineral property?—No, I have not. We have had very few mines discovered in the county of Cumberland, and none that have come under my direction upon leaseholds.

2013. You know nothing about stone quarries, I believe?—There are some alabaster quarries, belonging to the dean and chapter, which are separately leased.

2014. Are there any minerals within the Church property?—Not that I am aware of. The only reservation the Bishop of Carlisle, or the dean and chapter rather, make in the lease is, reserving the wood.

2015. Do

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2015. Do they not reserve quarries?—They may reserve them in some leases, wherever they may be supposed to be, but in the leases I have there is no such reservation; the quarries are let separately.

2016. In the leases that come under your knowledge is there no other reservation but the wood?—They reserve the wood, and there may be minerals reserved in some of them. I have a lease here in which there is an exception (dated the 23d of June 1846): "Except "and always reserving to the said dean and chapter and their successors all timber trees "and sapling trees, and all other wood and underwood, now growing and being or which "shall hereafter grow and be in or upon the said demised premises."

2017. What is the reserved rent?—"Yielding and paying during the said term the sum "of 1*l.* 15*s.* 10*d.*" This is a lease to myself; and upon the renewal I paid 385*l.* for a fine calculated upon a year and a half. I may perhaps be allowed to observe that the leasehold estates are all tithe free. Many of the freehold estates in Cumberland, until lately, when the commutation took place, were subject to tithes; and I have often heard it remarked, that a leasehold estate being tithe free was as good as an estate of freehold which was subject to the payment of all manner of tithes.

2018. Do you mean that the difference in value was equivalent to the tithe?—Yes. In selling the estate many persons considered the leasehold estate and the freehold estate were about the same value, one paying all tithe, and the other not paying the tithe. I have before observed, that an idea prevails throughout the diocese of Carlisle, that the leasehold tenants were by custom entitled to the right or benefit of renewal, which enhanced the value of their estates.

2019. Do you mean that they have all believed that it would be renewed?—Yes; and upon the faith of that, estates were sold and purchased, and estates were mortgaged, and estates, to my knowledge, have also frequently been passed by will with heavy charges and incumbrances upon them. The estate in question, to which I have been alluding, of the rectory of Penrith, is actually entailed by Mr. De Whelpdale.

2020. Have you any instances within your knowledge of mortgages upon such estates?—Many.

2021. Within what margin would mortgages go of the annual rental?—Generally speaking, they would go to about two thirds of the value.

2022. Do you mean two thirds of the fee-simple value?—Two thirds of the fee simple. They would like to reserve one third; prudent men do not very often go beyond that.

2023. Do you mean that they would go as near to the value of an estate in the case of a leasehold as of a freehold?—Yes; upon the same principle they would calculate it. If the estate was worth 1,000*l.* they would have no objection to advance two thirds of that money upon mortgage.

2024. Would you take that two thirds at the twenty-two years purchase or at the twenty-six years purchase?—I should take it according to the marketable value of the lease; I should take it according to what the lease would sell in the market.

2025. Do you mean that there would be a reserve allowance of a third of the mortgage value of the interest which the mortgagor had?—Yes; the same as upon freehold. I never would mortgage a freehold estate to a greater extent.

2026. A person lending on mortgage on such a property would not look to the book value of the interest which the lessee had, but to the marketable value, and by that he would calculate the proportionate extent to which he would lend; is that so?—Most certainly he would calculate upon what was the marketable value of the estate. With respect to the book value it is a thing we have never heard of until of late years. I never heard about book value until the subject became agitated about eight or ten years ago; then we heard a good deal about the book value, but not until then.

2027. You said just now that the leasehold being free from tithe is thought nearly of the same value as the freehold which is chargeable with tithes?—Yes.

2028. If that be so, I do not quite understand why you gave twenty-seven years value for a freehold estate, considering that that is chargeable with tithe, and yet that you only gave twenty-two years purchase as the value of leasehold which is free from tithe?—I have only calculated it in that way with reference to a freehold estate tithe free.

2029. According to that, do you not make six years difference of value between them?—I do.

2030. But, in point of fact, is not that so?—A leasehold estate and a freehold estate are, as I say, put upon a par when they come to be sold, if the freehold pays all manner of tithes; but when it is free from tithe the difference in value between the two I have always understood to be in the proportions I have stated. Although the tithe is nominally one tenth of the produce, yet, in point of fact, it is one seventh, which greatly reduces the value of the estate. There is the expense of putting in the crops and reaping connected with it, so that some consider the payment of tithes as great a burden as septennial fines.

2031. Is there not this disadvantage in regard to leaseholds, that there is the reserve of timber, and that you cannot make any improvement without being charged for it upon the

the next renewal?—There is no doubt a disadvantage. There is not that inducement to lay out money which there might otherwise be; but, until lately, we never looked to that, because we considered there was a certainty of renewal.

2032. But still, although you had the certainty of renewal, you would have to pay for improvements upon the renewal, would you not?—Yes; but we were very well warranted in making the improvement, till very lately. I have a letter from one gentleman who says he has ceased laying out money in improving his leasehold estate by reason of the subject being agitated for the last two years; that he had laid out upon an adjoining freehold about 600*l.*, which he considered would pay him thirty per cent., and that he would have laid out a larger sum on the leasehold, had it not been from the circumstance of this question now being agitated; and he was not going to lay out more money until such time as this matter was settled.

2033. In how long a time do you think a person gets the benefit of his improvements upon land, such as draining, and so on?—Draining, I take it, is a permanent improvement.

2034. But on how short a lease would you be willing to drain, as a tenant?—The expense of draining, generally speaking, is incurred by the landlord, and the tenant pays five per cent. for the money laid out. If a landlord lays out money for beneficial improvement he charges five per cent.; such as for draining.

2035. What length of tenure should a man have before he lays out money upon such improvements?—I think upon a lease for twenty-one years I should have no objection to laying out money.

2036. You would not care to have your improvements charged against you in the course of two or three years after you had incurred the expense, provided you had a certainty of renewal?—I should, till lately, have had so much faith in my landlords, that they would renew upon the customary terms, that I should not have hesitated to lay out my money.

2037. Suppose a lessee under the Church had laid out a considerable sum of money in draining, and had improved the annual value of the estate from 200*l.* to 300*l.* a year, what would his fine be assessed at the next time?—As I have said before, no case of that kind has come within my practice. I have not known of any lessee laying out money to any extent in draining upon leaseholds. I have understood that the chapter of Carlisle do not charge for the improvements on the first renewal, and that they allow the lessee to have the benefit of it.

2038. Do you speak of it from your own knowledge?—I understand from Mr. Saul's examination before alluded to that it is their rule not to charge upon the first fine for improvement. I do not think a great deal of money has been laid out in leasehold property in the way of draining.

2039. The want of draining has been, until recent times, very general in leaseholds as well as freeholds, I believe?—Yes; but there are many people who have treated their leaseholds exactly as their freeholds; they have made no difference; they have relied so much upon the certainty of renewal.

2040. Have you any scheme that you would propose to the Commissioners?—I have; I drew out something before I left home upon the subject, which I will take the liberty of reading.

A leasehold estate for twenty-one years, of the annual value of 100*l.*, renewable every seven, on payment of a fine of one and a half year's value.

	£	s.	d.	£	s.	d.
Annual value	100	0	0			
Deduct reserved rent	2	0	0			
	98	0	0			
Add half-year's value	49	0	0			
	147	0	0			
One-seventh				21	0	0
Rent reserved by lease				2	0	0
Rent-charge henceforth to be paid to lessors in lieu of septennial fine and reserved rent				23	0	0
Average marketable value of a freehold estate in Cumberland of 100*l.* a year, twenty-seven years purchase				2,700	0	0
Average marketable value of a leasehold estate for twenty-one years, twenty-one years purchase				2,100	0	0
Difference between the marketable value of a freehold and leasehold estate				600	0	0

The question is how is that 600*l.* to be disposed of; that is what may be considered as the reversionary interest. I should beg leave to suggest that that should be divided between the lessor and the lessee, according to the interest that each party had in the estate.

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2041. Do you mean at the time the arrangement was made?—Yes. In the case I have put the dean and chapter our lessors will have secured to them in perpetuity the 23*l.* a year in lieu of the reserved rent and septennial fine they are at present receiving. Convert the septennial fine into a payment each year, and add to that the reserved rent, makes it 23*l.*; that is the rent-charge. Then comes the question as to the 600*l.*, the difference between the freehold and the leasehold estate; and then I should say that that ought to be divided between the lessor and the lessee, according to the interest each party has. It is to be observed, at the present moment the lessors have derived no benefit at all from the reversionary interest, the lessee being entirely in the possession as it were of the property; so that whatever they get will be a bonus, it will be an addition to the sums they have hitherto received. You are no doubt perfectly aware of the interest of lessor and lessee; the lessor has about one fifth and the lessee four fifths. I should submit it would be a fair way to divide this 600*l.* between the lessor and the lessee in those proportions.

2042. £23 is rather more than a fifth; if you were to add 2*l.* more to it, it would be a fourth of the 100*l.*, would it not?—Yes; but take it according to the interest the parties have, that is matter of calculation afterwards. It is to be observed, whatever the lessors get will be in addition to the present sum; they have no benefit from it at present, and never have had.

2043. As the lessees get the benefit?—He has the benefit thus far, that he has got a better price for his land upon the certainty that a renewal would be granted from time to time, but on the existing terms he looks to a perpetuity as much as the copyhold tenant has done.

2044. If a copyhold tenant treats his copyhold as freehold, does he not forfeit it?—No, by no means. We have a great deal of copyhold tenure in Cumberland, and I never heard of any forfeiture.

2045. Does not the 600*l.* which you speak of represent the difference of the value between the freehold and the leasehold?—Yes, no doubt.

2046. If a leaseholder sells his estate as leasehold he gets no benefit of 600*l.*, does he?—No, he does not; but the purchaser looks to the reversion by the renewal of the lease.

2047. How does the lessor get less benefit than the lessee, seeing that neither have any benefit of that 600*l.*?—They neither have any benefit of it, but the lessee is in possession of the property, the lessor is not. At present the Church are deriving no benefit at all from the reversion, and it is of little value to any one but the lessee, and no one else would be disposed to purchase it.

Mr. T. Salmon.

Mr. Thomas Salmon examined.

2048. What are you by profession, and where do you reside?—I am a practising attorney at law, at South Shields in the county and diocese of Durham, and have been in practice for thirty-two years, and hold the office of clerk of the Town Improvement Commissioners, clerk to the Board of Guardians of the South Shields Union, and vestry clerk. I am also the secretary to the committee appointed by the public meeting of Church leaseholders, held at South Shields on the 13th of April 1849, having also previously held the office of secretary to the public meeting of Church lessees, which was holden in that town on the 10th of March 1837. The resolutions I wish to put in, and they are as follow:

"That a royal commission having been issued, directing an inquiry whether the present "mode of dealing with Church leasehold property, with consideration of the just and "reasonable claims of the lessees, may not be improved for the benefit of the Church, it "is most important to the lessees, that in any measures affecting the property in question "*their* interests also should be carefully considered.

"That the tenure of Church leaseholds in the diocese of Durham is of an ancient and "peculiar nature which has prevailed for centuries in its present form, upon the faith of "which a vast amount of agricultural, manufacturing, and other capital has been expended, "and in full confidence of the permanency of which, as securing an interest to the lessee "beyond the term comprised in the subsisting demise, the leasehold lands, houses, and "other property of the Dean and Chapter of Durham have been purchased, settled, and "mortgaged, for proportionable valuable considerations, down to the present hour.

"That the confidence of the lessees in the permanency and security of their tenure "was further increased by the report of the select Parliamentary Committee on Church "leases, which was made in 1839, whereby it was recommended, that in the principles of "enfranchisement which might thereafter be laid down the customary confidence of "renewal by the lessees should be considered according to local circumstances, the "interests of the Church, present as well as future, being to be provided for by a combined "system of money payments and corn rent-charges.

"That, notwithstanding the recommendation of this high authority, and the hope "which was created by the report, that some legislative measure would have been "founded thereon which would have been satisfactory to all parties, there is reason to "fear

"fear from the various plans which have since been promulgated for the settlement of "the Church leasehold question, or otherwise dealing with the property, that the interests "of the lessees are endangered to an extent which will involve the livelihood and subsist- "ence of many thousands of individuals, and that it is therefore necessary in the present "state of the question, for such evidence and opinions to be collected and placed before "the Commissioners as may lead to a just consideration and satisfactory settlement of the "equitable claims of the lessees:

"That a Committee, to consist of the following gentlemen, viz. Messrs. R. Shortridge, "R. Ingham, Thomas Forrest, William Anderson, Reverend Robert Green (of Long- "horsley), H. Major J. Straker, Thomas Salmon, J. W. Roxby, R. W. Swinburne, "E. Pattison, Tony Waller, Robert Anderson, Reverend George Abbs, John Robinson, "John Reay, John Heath, Robert Wallis, and J. T. Wawn, M.P., with power to add to "their number, be now formed to watch over the interests of the lessees, and to take such "steps for their protection as may be deemed expedient, five of whom shall be a quorum.

"That Thomas Salmon, Esq., be requested to act as secretary to the committee."

The borough of South Shields consists of the two townships of South Shields and Westoe. The township of South Shields is next the river Tyne, being entirely bounded on one side by that river. The township of Westoe is also in some degree bounded by that river. The township of South Shields contains eighty-nine acres two roods and twenty perches, which is all built upon, the following being the description and particulars of the properties; viz.

Dwelling houses and shops.
Ten docks capable of receiving fourteen ships, and ship-building yards.
Twelve glass-houses.
Other manufactories of various kinds.
Breweries, quays, ballast wharfs.
Timber yards, sail-lofts, &c.
Gas manufactory.
Hilda Wallsend Colliery railroad.
Steam ferry.
Stanhope and Tyne coal drops, railway, &c.
Brandling Junction railway and drops.

According to the present poor rate,	£	s.	d.
The total of the gross estimated rental of this township is -	25,027	6	8
And the total rateable value is - - - - -	18,770	10	0

The tenure is partly leasehold, under the Dean and Chapter of Durham and the Durham University, and partly freehold. The whole of it was of leasehold tenure, until the enfranchisement for the redemption of the land tax took place in 1806 and 1807, and under the Durham University Act in 1833, 1834, and 1835, with the exception of some original freehold of the trifling rental or annual value of about 50*l.*

The township of Westoe consists of 1,691 acres, all now of leasehold tenure, and sixty-three acres two roods freehold, which never were of ecclesiastical tenure, viz., Mr. Ogle's, Mrs. Sarah Green's, and Mr. William Alderson's (late Fairles's). The whole of the township of Westoe is only part built upon, the principal part of it being agricultural land, laid out in farms, in the highest state of cultivation and order. The following are the particulars of the properties in this township; viz.

Dwelling house and shops.
Alkali manufactories.
Gasworks, ballast depôts, breweries, pottery and other manufactories.
Waterworks.
Stanhope and Tyne railway.
Messrs. Brandling's colliery, railroad, &c. and agricultural land.

According to the existing poor rate,	£	s.	d.
The total of the gross estimated rental of this township is - -	25,728	10	0
Its rateable value being - - - - -	22,920	10	0

The whole of the property in those two townships, as herein-before described by me, was not created by the capital of the lessees; but the chief part of it was, as I propose to show by the following statement; viz.

	£	s.	d.
Total gross estimated rental of the township of South Shields -	25,027	6	8
Do. do. township of Westoe - - -	25,728	10	0
Total in both townships - - - -	50,755	16	8
Deduct from this the gross estimated rental of the following properties, which never were of ecclesiastical tenure, viz. Original freehold in South Shields townships - - - Glebe leaseholds of 999 years term, waterworks and steam ferry, both created by Acts of Parliament, and agricultural lands in Westoe township - - - - -	11,000	0	0
Gross estimated rental of the houses, quays, docks, glass-houses, manufactories, &c. actually created in the borough of South Shields by the capital of the lessees upon the faith of the tenure, exclusive of the improvements by them of the lands - - - - - -	39,755	16	8

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The population of those two townships, according to the census of 1841, was as follows, nearly the whole of it being a town population:—

South Shields -	- 9,085
Westoe - - -	- 13,983
Total	- 23,068

It has increased considerably since that time.

The length of term granted by the Dean and Chapter of Durham and the Durham University leases is twenty-one years (with the exception of what we call the Eight Acres, in the centre of the town, the leases of property included in which are by a special Act of Parliament granted for forty years). Nearly two thirds of the forty years leaseholds were enfranchised under the Act for the redemption of the dean and chapter's land tax. The twenty-one years leased properties are renewed on payment of a fine, amounting for docks, quays, and water-side property to one and a half year's rent in seven, the houses to one and a quarter year's rent in seven. The forty years leases are renewed once in fourteen years on payment of a fine amounting to one year's rent. To encourage buildings and improvements by the lessees the dean and chapter charge no fine until the property has been built and occupied fourteen years. Indeed sometimes the lessee gets a longer benefit, if he happens to build in the middle of a term of years. This rule is invariably acted upon. The renewal of the lease has been considered invariably certain, except in cases of misconduct and breaches of conditions, of which I myself am only aware of one (that of the corporation of Newcastle). It was a very peculiar case. The corporation had a lease from the dean and chapter, and they would cover the demised property over with ballast.

2049. Did they destroy the lands?—They made land of it. It was a piece of water connected with the river, and the dean and chapter intended it for a dock; it was profitable to the corporation to cover it with ballast.

2050. And the dean and chapter would not renew?—They would not. That is the only case I know in a practice of thirty-two years. So perfectly understood is the practice of renewal that when the time of septennial renewal approaches the agent of the dean and chapter sends notice to the lessee in a printed form, which he has ready for use, acquainting him with the amount of fine, and appointing a day for the payment thereof. A doubt of renewal never entered into the minds of the lessees until the agitation of the question in 1837 (confidence being afterwards restored by the parliamentary report of 1839), and now again in 1849. Even on the dean and chapter's leases there is always an indorsement, stating the exact day on which the seven years expire, as thus,—

" 27th September - - 1842
7

" Seven years expire 26th September 1849."

This is an original lease with the indorsement upon it, and there is invariably that indorsement upon all the leases. (*The original was produced.*)

The rate at which leasehold houses sell greatly depends on their situation and condition. In good situations from thirteen and three quarters to nineteen and a half years purchase, averaging sixteen and three fifths. For tenemented property where the recovery of rents is difficult, and for property in bad situations, as low as eight or nine years purchase. For water-side leasehold property from eighteen years purchase to twenty-two has been given, averaging nineteen and one third years purchase. In all these cases, supposing the lease to be full, or within only three, two, or one year of renewal, the same number of years purchase would be given, deducting the probable amount of fine, namely, one and a half or one and a quarter's rent (as the case may be) in seven years, pro ratâ for the years elapsed. Very many of the properties are mortgaged, and several are subjects of settlement in various ways. Before the present agitation, money to the amount of two thirds, and in some favourable instances three fourths of the value, could be obtained on mortgage. In October 1835 I know that 13,000*l.* were lent by one individual on mortgage of dean and chapter leasehold property in the borough of South Shields at four and a half per cent. (which still remains), and I know that in 1815, 24,500*l.* were lent by one individual on mortgage of dean and chapter leasehold property in that same borough at five per cent. interest. I also know of a recent instance (but before the existing agitation) in which a large sum was lent on mortgage of property in that borough at five per cent. interest. All showing the confidence in the tenure; which is also proved by the fact that the theatre, mechanics institute, dispensary, old charity school, union school, and several dissenting chapels are built on dean and chapter ground.

2051. On chapter leases?—Yes; on chapter leases for twenty-one years.

2052. Do you happen to know whether that has been recognized by the Privy Council as freehold in giving the grants to assist the schools?—I do not know that, but I know that the union school has a grant from the Privy Council, and it is of leasehold tenure for twenty-one years.

2053. Schools which have been built?—Yes.

2054. Are you sure there has been a grant towards the erection of those schools?—I am sure of it. Freehold dwelling houses in good condition, well situated, and fit for the residence

residence of a respectable family have been sold at sixteen years purchase; in a worse situation they sell for much less. In trade situations freehold houses and shops sell from sixteen and a half to twenty-one and a half years purchase, averaging nineteen years. In 1837 the agitation of the question rendered leasehold property neither saleable nor mortgageable; and it was not until the publication of the report of the Parliamentary Committee of 1839, whereby it was recommended "that the customary confidence of renewal by the "lessee should be considered, according to local circumstances, by the authorities established "under the Act in the principles of enfranchisement to be laid down by them," that the confidence of the lessees in the tenure was established and their alarm removed. Since that time the renewal of the leases by the dean and chapter has gone on as quietly and upon the same terms as previously, and there have actually been erected on chapter ground, by and at the entire cost of the lessees, no fewer than 200 houses; namely, Costerphine Town, Keppell Street, West Keppell Street, Smithy Street, a street behind Keppell Street, Upper Thames Street, Blumer Terrace, and Swimburne Street, East Jarrow. I have myself expended 12,000*l.* within the last six years in the improvement of Church leasehold property in South Shields. Leasehold building ground has lately sold at 3*s.* 6*d.* per square yard, whilst freehold building ground in the same neighbourhood only reached 5*s.* per square yard. The present agitation has, however, again rendered leasehold properties no longer saleable or mortgageable, and a necessity has arisen for a settlement of this question by legislative enactment.

2055. Within what time have those 200 houses been built?—Since the report of the Parliamentary Committee in 1839. I have taken some trouble to ascertain the fact, and I find that that number has been built since the time I have named. I ascertained from the dean and chapter the number of fresh leases granted, about which there can be no mistake. A new patent slip way for repairing ships has also been made. In the enfranchisement under the Durham University Act, the terms varied from three and one tenth, three and one fifth, to ten years purchase, according to the quality, situation, and so on of the property, and the term of years in the lease. Many lessees refused to enfranchise, the terms being considered too high, and their leases have since been renewed by the dean and chapter as trustees for the Durham University.

2056. They could not sell although they wished to sell?—No. Several people thought the terms were too high, and would not accept them. There is an express clause in the Durham University Act, which gives the dean and chapter, as trustees of the University, power in that case to renew leases as theretofore, and they have done so upon the accustomed terms.

No regular scale of enfranchisement can be laid down as regards house property. Every case must stand upon its own peculiar merits, as to its state of repair, locality, and situation for trade, and local inquiry by a perfectly constituted authority will have to be instituted. The chapter lands in the township of Westoe and Harton (there is no agricultural land in the township of South Shields) and adjoining townships of Fulwell, Monkwearmouth, Hedworth, Monkton, Jarrow, and Heworth, are as well cultivated as any land in the county of Durham, and no instance was ever known of land being allowed to depreciate in condition from the approaching renewal. It lets in many cases as high as five pounds an acre, and is very productive. The leases are for twenty-one years, renewable every seven, on payment of a fine calculated at one and a half year's rent in seven.

The average price of land is eighteen and a quarter years purchase, ranging from fifteen and a half to twenty-one and a quarter years purchase. I have given for a client twenty years purchase for a farm of land, the lease of which had sixteen and a quarter years to go; and for another farm, which had eighteen and three quarters years to go, I gave for a client twenty-one and a quarter years purchase. Both without any special causes to enhance the value, and the purchases being made simply as investments for money. Mr. Ingham got twenty years purchase for the leasehold farm at Simonside which he sold to Mr. Errington Bell.

The lands (as well as the other properties) have been extensively mortgaged and settled. Many jointures consist of such settlements, and many families are entirely dependent on them. In the township of Westoe alone, the following farms are settled either by will or deed; viz., Green's, Wallis's, Rippon's, Blenkinsopp's, Straker's, Anderson's. Mr. Ingham's farms were also made subjects of settlement on the marriage of his mother.

There are many instances of long hereditary holdings. An estate at Harton has been in the family of the Brewsters, as lessees under the chapter, for upwards of 200 years; and the house and extensive manufacturing property of Messrs. Cookson at South Shields had been so held for 120 years and upwards at the time of the sale to R. W. Swimburne and Co., with many other such like instances.

I know of no instances of lessees being dispossessed by the refusal of the chapter to renew (except in the solitary instance I have already named).

The leases of land are not in the usual form of farming leases, and they give the lessees an unrestricted right to the appropriation of the property demised, subject to the reservation of the mines, &c. to the chapter. They do not in general enumerate the parcels. They contain no agricultural covenants; and the lessee paying the fine is left to his own management, as other proprietors. He incurs all expenses of repairs, insurance, roads, drains, farmhouses (my client Thomas Forrest, Esquire expended last year 500*l.* in the erection of

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a new farmhouse and buildings on his Westoe farm), and all other improvements without any allowance from the Church. Ordinary landlords make all substantial repairs and improvements for their tenants, and contribute liberally to the draining of the land; but in the lands of the Church the lessee is the real landlord and performs the landlord's duties.

2057. Is there any such tenure as this in the hands of individuals in the north?—None whatever.

2058. Is it entirely confined to ecclesiastical bodies?—Certainly confined to ecclesiastical bodies. All our leases are twenty-one years leases. We have no leases on lives with us.

2059. Are there not college leases?—We have no college leases either, except those under the Durham University. The property thereby demised belonged originally to the dean and chapter, and they gave it to the university for educational purposes. Some of the leases contain stipulations for suit and service, and some for military service, which I never saw or heard of in any other leases. I produce a copy of a covenant for military service, which I have extracted from a dean and chapter lease, and it is as follows: "And "the said James Anderson and Robert Anderson, for themselves, their executors, adminis- "trators, and assigns, do covenant by these presents to and with the said dean and "chapter and their successors, that they, their executors, administrators, and assigns, "shall be ready at all times, when occasion of service shall be, to serve the King's "Majesty, his heirs and successors, in the wars, when and so often as they, their executors, "administrators, and assigns shall be thereunto commanded by the said dean and chapter, "their successors or officers."

There is a similar covenant in Mr. Ingham's lease.

There is a knowledge in the county of Durham of the origin of this condition, as such a covenant is contained in the indenture of demise referred to by the order of Queen Elizabeth's Privy Council in the north, (which I examined in 1838 with the Lansdowne manuscript in the British Museum,) made the 17th of August 1577, between the Dean and Chapter of Durham and the tenants, as a perpetual ordinance to be observed between them. That order of Elizabeth contains the form of the demise. It has since been recognized by the certificates of Cromwell's Commissioners, and by a resolution of a Parliamentary Committee of 1649. I produce copies of all these documents, and I request them to be taken as part of my evidence, and printed.

[The witness handed in the same.]

[*They are all of public notoriety, and are to be found in the histories of the county of Durham.*]

2060. Would you think the enfranchisement of house property would be acceptable?—The lessees would like very well for the tenure to be changed of house property by the present mode of fine and renewal being converted into a perpetual rent-charge. If the two modes of money payment and rent-charge could be combined, I have no doubt the lessees would like to be enfranchised, but not for a money payment alone, which would in many cases be attended with inconvenience, particularly where there are existing mortgages.

2061. Do you think that any individuals would find a difficulty in raising the money?—I am sure they would; and therefore I repeat that it should be a combined system, as recommended by the Parliamentary Committee of 1839, of money payment and rent-charge. The way I understand this is, the monied payment to suit a monied lessee, who could conveniently advance the money to purchase the reversion, and the rent-charge to suit the lessee who had not the money, and who could not purchase. The lessee to have an optional power to redeem the rent-charge when it was convenient for him to do so.

2062. By the terms of the Durham University Act, when they wanted to raise money, it was to be a money payment, was it not?—Yes, a money payment only.

2063. And they did not effect a great many in that way, did they?—Yes, they effected as many sales as they wanted, and then when they required no more money they stopped, and would not since enfranchise any more. But many lessees refused to enfranchise, considering the price too high; there was a considerable part refused. The lessees had power to enfranchise, which they did not; but they have gone on renewing in the usual manner since without alteration.

2064. Do you think they would be glad to enfranchise for a rent-charge or an annual sum?—Yes, I am sure they would. I would wish to add, that the Parliamentary Committee of 1839, having by their report recommended the abolition of the system of fines, and the substitution of a fee simple for a leasehold tenure, the customary confidence of renewal by the lessee to be considered according to local circumstances by the authorities in the principles of enfranchisement to be laid down, and having recommended the interests of the Church present as well as future to be provided for by a combined system of money payments and corn rent-charges, the lessees of South Shields would wish, as I have before asserted, that system to be carried out in preference to any other; the basis of calculation with a view to any alteration of the tenure being the actual per-centage hitherto received from each property by the Church. As to the plan of a perpetual right of renewal, it would not, I think, be satisfactory if accompanied with a pecuniary payment as a consideration; for

for the lessees contend, with justice, that they have already the right of renewal, and I contend, with them, that to deprive them of the benefit of it under any pretence whatever would be an act of gross injustice and spoliation. Speaking of the town of South Shields alone, it has been built entirely with the capital of the lessees, the Church not having contributed one farthing towards its erection. The Church has derived immense advantages from this expenditure of capital by the lessees, which was made in the confidence of renewal upon a certain fixed understood principle of three centuries continuance; and it would seem only fair and just, that whether the renewal be made perpetual or not, the lessee should not pay more under any system of renewal than that which he now pays. If money is wanted for Church purposes, the lessees should not be called upon to pay it, and I see no reason why the incomes derivable by them from their leaseholds should, under any circumstances, be reduced at the interference of a third party.

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Thursday, 17*th May* 1849.

HUGH TAYLOR Esq., coal owner and agent to the Duke of Northumberland, residing at Earsdon, HENRY MORTON Esq., of Lambton, Durham, principal steward of the Earl of Durham, and RALPH PARK PHILIPSON Esq. of Newcastle, solicitor and coal owner, were called in, and informed by the Commissioners, that it was proposed to examine Mr. Taylor in the first instance, and as it was understood that they were all prepared to give evidence on the subject of Church mining leases, either of the other two gentlemen would be at liberty to make any observations they might think necessary in the course of the examination.

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Henry Morton, Esq.
R. P. Philipson, Esq.

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HUGH TAYLOR Esq. examined.

2065. HAVE you any statement that you wish to make with respect to Church mining leases?—I have; and in order to preclude any misunderstanding on our part, and to save the time of the Commissioners, we have taken the liberty of putting down in writing what our sentiments are.

2066. Will you proceed with your statement?—I should premise that our evidence has entirely reference to the counties of Durham and Northumberland; that we are merely here as coal owners, and in no other capacity whatever. In reference to Church mining leases we state that "in the county of Durham there are many coal mines held under the see "of Durham and the dean and chapter. The bishop has granted leases for twenty-one years, "though a few, which are exceptions, are held for three lives, sometimes to parties who have "held such leases as portions of family property, and which have been made the subject of "settlements, mortgages, and other securities. In nearly all cases, in consequence of the "great risk and capital required for winning the coal mines, the lessees have sublet the coal "to mining adventurers, reserving to themselves in all such cases the best rent they could "obtain according to the existing circumstances and prospects of the coal trade, themselves "paying the fines and fees of renewal. The leases granted by the dean and chapter are gene-"rally for the term of twenty-one years, and they have in many cases been also dealt with as "family property. A coal mine is, in a dormant state, worthless, and can only be made "valuable by means of the expenditure of capital. The cost of winning a colliery varies "in every instance, and may be said to range from 10,000*l.* to 200,000*l.*"

2067. When you use the word "winning" do you mean putting the mine into a position to get the coal extracted?—Yes; it is the bringing it into operation.

Mr. Morton.—It is the sinking a pit and engines to work it.

2068. Does it mean that they have then established the mine?—*Mr. Taylor.* It is the preparatory operation in order to enable the coal to be worked. We proceed to state that "it must be obvious that no lessee would embark in such an undertaking on the "simple grant of a twenty-one years lease. The Church property in mines cannot be "more valuable than that of freehold proprietors, and to obtain lessees the Church "property must therefore be let on the same terms as freehold coal. The customary terms "of such freehold coal leases vary from forty-two to sixty-three years, and Church "property has practically been dealt with in the same manner, and in no other way could "it have been rendered productive. A lessee of coal under the Church, either for "lives or twenty-one years, when the time arrives in which it can be brought into "beneficial operation, should he decline adventuring himself, proceeds to deal with it "in the following manner. He has himself only a limited term, too short, as above "stated, to warrant the mines being brought into operation, and if the case ended "there, the lease of the coal would be worthless, as no one would expend the requisite "capital. It being, however, known that in practice all these leases are renewable, and "have been invariably so renewed for centuries, the parties calculate as a matter of "moral certainty upon such renewal. The immediate lessee under the Church grants at "once a lease for forty-two or sixty-three years, provided his interest either under the

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" then existing or any renewed lease shall extend to that term, binding himself by express " covenant to use his utmost exertions to obtain such renewal and to pay the requisite " fines. The most perfect reliance has been placed upon this system; capital has been " expended on the faith of its continuance to an enormous amount. A parliamentary " recognition may be said to have been given to the lessees of the benefit of renewal " by the Irish Church Temporalities Act, for it can hardly be maintained that what was " granted to lessees in Ireland can be withheld from lessees in England. It has practically " also been supported by cases in which for different purposes the property of the Church " has been enfranchised upon terms satisfactory to the lessees concluded by voluntary " agreement." I now take the liberty of stating a case or two; and as to the first, I should mention that it is a case in which I am myself concerned, and therefore I can state this as a fact. "The Haswell Coal Company are in possession of a large tract of coal under the " Bishop of Durham at Shotton in the parish of Easington, where they sunk a colliery in " 1841 which has cost them nearly 120,000*l.*, and from which they have hitherto derived no " remuneration whatever either in the shape of profit or interest. The principal seam is " not yet effectually won, lying at the depth of 210 fathoms. It is evident that the above " capital of 120,000*l.* was embarked by the company on the faith of a long and undis- " turbed continuance of the possession of the royalty on the customary payments being " made for renewals, and their capital would not have been embarked, except in the " confidence that at all events forty or sixty years would elapse before any change in those " respects was made, it being no more than usual for lessees to have leases of the above " duration where such a large amount of capital is embarked. The royalty won by " Shotton colliery is almost exclusively leasehold, so that this kind of property is all that " the company depend upon for compensation." In the next case I have an interest in the lease of Ryhope royalty. " The Ryhope royalty is held by a lease for thirty-seven " years from 13th May 1831 (subsequently extended to forty-two years from May 1839) " from Lady Barrington."

2069. Whom do you hold that lease from; whom was that lease taken from?—From Lady Barrington.

2070. Has she a lease from the bishop?—Yes.

2071. When you talk of having an interest equal to forty or sixty years, and that they have a reliance on the renewal of the lease, is it not the fact that the bishop has no power to grant that lease?—No.

2072. Do you mean that they have that interest, provided the first lessee can give it?—Yes.

2073. In the case you last referred to, Lady Barrington is the lessee, and this company who are winning the coals are sub-lessees under Lady Barrington?—Yes; and that has only reference to this case.

2074. The original lessor in this last case was the bishop?—Yes; in both cases. With regard to Ryhope royalty I have stated that it is held by a lease for thirty-seven years, from 13th May 1831 (subsequently extended to forty-two years from May 1839), from Lady Barrington at certain fixed rents. No winning has been yet made upon this royalty; the state of the coal trade having been such as to discourage the advance of the necessary capital, estimated at 100,000*l.*; but the company have paid rents to the amount of 18,323*l.* 17*s.* 8*d.*, and with simple interest at four per cent. to 23,850*l.* 7*s.* 11*d.*

2075. That is, although you have been paying the rent, you have got nothing?—Yes.

2076. And not having the necessary capital to win the coal, and receiving nothing, you still have been paying the accustomed rents?—I do not admit exactly that we had not the necessary capital. That was not the case.

2077. Do you mean that in the present state of the coal trade it was not advisable to lay out the necessary capital for winning the coal?—Yes; precisely so. I wish to give an instance or two. "Another instance may be adduced in support of the firm reliance and " conviction entertained by the lessees of mines held under the Church in the county of " Durham of the right of septennial renewals, in the case of Lord Durham's family having " held, for a century we believe, a very large tract of dormant coal in the parish of " Chester-le-Street under the see of Durham, and upon which the regular septennial fines " have been paid, without these mines being brought into operation, which could not " hitherto be done in the state of the coal trade. The universal custom of the bishop and " dean and chapter has been to charge one and a half year's rent as a fine for renewal " every seven years; which, considered as a yearly rental, is about one fifth of the actual " annual value. If, therefore, it was considered desirable to commute this septennial pay- " ment to an annual one, it would only be necessary to divide the actual amount of certain " and tentale rents by five to give the sum to be paid. It is obvious that no unvarying or " permanent fixed rent-charge can be made, not only because the amount of rental varies " annually, according to the quantity worked, but also because the mines themselves are " subject to exhaustion, when the revenue derivable from them must necessarily cease. " By a system of this description the lessors would have the advantage of receiving " annually the proportion of the actual sum which the colliery yields as rent, and the lessees

" would

" would have no inducement to work the mines improvidently; whereas, if there was not a " clear acknowledged perception of the continuance of tenancy, the tendency would be to " induce the lessee to work out the mines during his existing term of lease, which in many " cases might be accomplished. It may be proper here to remark that the general market- " able value of explored freehold coal mines in the counties of Durham and Northumber- " land is twelve and a half years purchase; and, therefore, if enfranchisement was con- " sidered desirable, the respective interests of lessors and lessees could be readily defined, " and the lessees would be quite ready to enfranchise upon equitable principles." And that is signed by myself, and Mr. Morton, and Mr. Philipson.

2078. You state that it may be proper to remark that the general marketable value of the explored freehold mines of the counties of Durham and Northumberland is twelve and a half years purchase. Is that for the mine that is won or explored?—Explored.

2079. What is the difference between exploring and winning?—By boring you can ascertain with a great degree of accuracy (and from the neighbouring collieries) what the contents of the mine are, without an absolute winning.

2080. What was the case with regard to the first colliery you mentioned; was that explored?—No; it was not explored. It happens in that district that you cannot explore a mine by boring; there is such a great overlay of magnesian limestone; and underneath that limestone is a sand yielding quantities of water, and rendering it most expensive and difficult to win the coal.

2081. It seems that the terms on which lessees feel disposed and warranted in laying out these large sums vary from thirty-seven to sixty-three years?—Yes; it depends entirely upon the circumstances.

2082. In the particular case you mentioned where there was a lease for thirty-seven years, and subsequently extended to forty-two years, granted by Lady Barrington, there had been laid out an enormous sum of money?—That is a case where the coal was unknown and not won at all. The first case I referred to was the case of the Haswell Coal Company.

2083. What term do the lessees suppose themselves that they ought to have, to warrant the expenditure which you have referred to, which seems to me so enormous?—I should say sixty or sixty-three years, which is as large as any. The one I referred to was the most difficult winning.

2084. Is it the difficulty and expense likely to be incurred in winning that governs the length of interest or tenure in the mine?—It would certainly have that tendency, though few lessees are inclined to win a colliery, where the depth is not great, under twenty-one years.

2085. In the case of the Ryhope Colliery to which you have referred, did I understand you to say that Lady Barrington was the lessee?—Yes; Lady Barrington was the lessee.

2086. What is her term?—She can only lease for twenty-one years; but she did let for a longer term.

2087. Was not that all subject to the contingency of her having the power to do so?—Yes.

2088. Are all the long terms so granted subject to the contingency that the principal lessors will give the first lessee the length of term?—Yes.

2089. Supposing (an improbable case though it may be) that the original lessor refused to renew the lease beyond the term of twenty-one years, would this large ratio of capital be lost to the sub-lessee?—Yes, no doubt.

2090. Do you know of any instance of a refusal to renew?—Never; I never knew an instance. It must be understood that the immediate lessees have always an interest to renew, and covenant so to do.

2091. Do you know of any instance of a lessor refusing to renew?—No.

2092. (*To Mr. Morton.*) Do you know of such an instance?—No, none.

2093. With regard to the case you have referred to of Lady Barrington, was not that a case where the mine had not begun at all?—*Mr. Taylor.* Yes, that is so.

2094. And in that case, therefore, had any lease been given?—Yes; she had the usual term of twenty-one years.

2095. Can you refer back to the opening of the transaction altogether? Was there any loss at that mine to any body previous to its being given to her?—I should suppose not. I do not know how she holds. I can only state that we hold of her.

Mr. Morton. I can state that Lady Barrington held them for a good many years.

2096. Must not the case have been either that the lease was run out by some previous party or that it was a fresh lease altogether, opened for the first time?—*Mr. Taylor.* I assume that it was so, and that she must have held some time before we took.

2097. Do you mean that she had not broken the ground before you took the lease?—No; and in this particular case, it is not open to this day.

2098. Will you state what the kind of rent is that is paid; is it not an annual rent and a tentale?—Yes.

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2099. What kind of covenants do they enter into about the rent?—I can speak accurately with respect to Shotton, because in that case we hold directly of the bishop. I do not know, with respect to Ryhope, what her ladyship pays to the bishop. I only know what we pay her ladyship.

2100. Will you state what you pay in the cases where you hold directly from the bishop?—That rent is a mere nominal rent.

2101. Will you state the fines that you have paid upon any won colliery?—We have renewed two or three times in the case of the Shotton colliery, and we have renewed lately. The renewal took place 26th December 1847, and we paid then to the bishop £3,068 7*s.*

2102. How was that calculated?—It was calculated at about one and a half year's rent for renewal of seven, after the end of fourteen years.

2103. Do you mean of the net profit?—No, not profit at all.

2104. On what do you estimate the fine?—We assume what the colliery would be worth if she had been let as a freehold colliery.

2105. How is that estimate arrived at?—It is estimated by the viewer of the colliery, and the bishop's viewer, and the parties who treat with the bishop. We ourselves estimate what the rent of the colliery ought to be, and having won it we know pretty well what our costs are.

2106. Is it estimated at 2,000*l.* a year in round numbers?—Yes; and the fact is that that was about the actual rent.

2107. In that case then the estimated rent pretty much corresponded with the net proceeds?—Precisely; that is, it corresponded with the general letting of collieries in the district.

2108. In this case did it actually correspond with the net proceeds of the year?—The net proceeds in this case would have been about 2,000*l.*; the rent would be about 2,000*l.* We paid 3,000*l.*, which is a year and a half.

2109. The estimate came to a year and a half of the net proceeds?—Yes, that is the case. It is so settled regularly.

2110. How do you calculate what rent would arise from the tentale rent; do you take it into account in the fine?—Yes.

2111. How do you calculate beforehand what it will be?—There are two points; the amount of the tentale rent signifies so much per ten payable to the lessor. It depends upon the number of those tens wrought or excavated.

2112. How do you calculate that?—We take it both prospectively and from what has gone before, and knowing what is going on at the moment, we can thus pretty nearly judge what is the power of the colliery, and the prospective chance of working that quantity.

2113. When the tentale rent enters into the consideration of the fine, how do you calculate what that is?—It always enters into the consideration of the fine.

2114. When the fine was set, had not the mine got into operation?—Yes.

2115. Do I understand, that in order to ascertain this value you resorted to other mines in the neighbourhood which were in full work?—Yes.

2116. And then did you estimate, knowing that those mines were working the same seam of coal as yours, and knowing what they produced, and what your colliery would let for? Is that the course of proceeding?—The course is, that we estimate what the colliery would let for per ten.

2117. Do you first establish some estimate of the quantity of coal that you are likely to raise?—We establish a tentale rent in the first place, and then assume that the quantity of coal drawn from the mine will be so and so.

2118. Do you estimate first what you have to pay as the tentale rent, and then do you estimate what the probable return of your colliery will be in point of quantity?—Yes.

2119. Does the valuer then see what the mine will let for to a tenant?—Yes; he forms his opinion, that is, the bishop's agent does.

2120. If he supposes it would let to a tenant for 2,000*l.* a year, then you would have to pay 3,000*l.* for the fine?—Yes.

2121. Does the bishop then take the tentale rent?—The bishop takes the fine upon the tentale. Perhaps I can explain this. Suppose a coal owner were dealing with coal belonging to a private individual, he would pay a certain rent, that is to say, 100*l.* a year, or any sum you please to suppose, whether he worked the colliery or not,—a sleeping rent; beyond that he would pay a rent per ten on the quantity that he actually extracted. In dealing with a bishop's mine the same principle would be applied, and the bishop's viewer's duty would be to ascertain the quantity that would be extracted from the mine, that is, that was capable

capable of being extracted from it, having regard to position, and machinery, and every thing of that sort; he would thus ascertain what the rental would come to, and, having so ascertained that, he would arrive at the year's rent, compounded of the certain rent and the tentale rent; then he would take a year's rent, and adding half a year to that, the amount would be the fine to be paid.

2122. In the case that was first stated to us, it appears in that specific case that the proceeds did happen to correspond precisely with the annual rent upon which the fine was fixed?—*Mr. Philipson.* Yes, and that is so in all cases.

2123. How can that be the fact in all cases?—A private individual would have to depend, in fixing, in some degree upon chance, in the same manner.

2124. In the case of a private person, would it not depend exactly on what was extracted?—*Mr. Philipson.* The bishop puts in a clause in the lease limiting the quantity to be extracted, and if you go beyond that you pay a tentale rent.

2125. Then from that, does it not appear that the tentales are not fully included in the fine?—*Mr. Philipson.* Yes, that is so.

2126. Is not this the arrangement, that you undertake to get a certain quantity, and to pay for any thing you get beyond that certain quantity?—Yes, that is so.

2127. We are desirous of getting at the rent upon which the fine is calculated. Does that rent consist, first, of what is called a reserved rent, and then of a calculation of the speculative amount of rent which is to arise by way of tentale; that is, that you are taking the speculative rent, and then you calculate the fine a year and a half's purchase; is that so?—*Mr. Philipson.* It is hardly to be called speculative, because it is the result of a careful consideration by the lessee upon the one hand, and the bishop's viewer on the other, as to the quantity, having regard to the character of the colliery, of the coal, and the means of raising it, and so on, that can be produced.

2128. Supposing in the course of the year, from the state of the coal market, you were induced not to raise coal, would you have paid a fine upon a larger amount than you have actually raised?—Yes; parties frequently have done so.

2129. Then calculating upon a certain number of tentales, you do not get them, but still you pay the bishop for them in the fine; is that so?—*Mr. Philipson.* Yes.

2130. Supposing that loss should arise from fire or flood, and from those causes you were unable to raise the quantity of coal you had anticipated, what would it be, the loss of the lessee?—*Mr. Philipson.* No doubt, he trusting to extract the water, and getting the coal afterwards.

2131. As I understood you, you can make up the deficiency of one year by an excess the next year in the quantity?—*Mr. Philipson.* Yes, undoubtedly.

Mr. Morton.—There is that privilege in the lease. With reference to the fine, as estimated by the bishop's viewer, it cannot be considered speculative; there can be no mistake about it. He examines the working of the colliery for the previous seven years. He comes to the colliery, and takes all the quantities from our books, the coal you have worked, and calculates his fine upon what has been actually wrought out of it for the previous seven years.

2132. Then, under those circumstances, is there much more speculation than in letting land?—*Mr. Morton.* No; certainly not.

2133. Are there not *faults*, as they are termed, which occur in these mines?—*Mr. Morton.* Yes.

2134. You seldom come to unknown faults now, do you?—*Mr. Morton.* Yes, sometimes we do; and sometimes there are heavy losses from water breaking in.

2135. Is there much loss now arising from the break in the coal, as it is termed?—*Mr. Morton.* Yes; there are what are called professionally dykes, and sometimes the coal changes its character altogether in the same royalty. A dyke may run in *this* particular position, in *this* way (*describing*). Supposing *this* to be a coal field, and *there* to be a colliery, which has been won; sometimes a dyke occurs, and upon one side the coal would be very good, and upon the other side the best seam is cut off, and cannot be found.

2136. Do you mean to state that, although the fine to the bishop is calculated upon the rent, which is ascertained with reference to the future tentale, that still the state of knowledge in the county is such that it can hardly be called speculative rent?—*Mr. Morton.* Yes; the bishop's viewer estimates the working of the colliery from the previous seven years; and then, if he supposes it is capable of working more than it has done the previous seven years, he, perhaps, adds something to it.

2137. Is not the frequency of renewals rather an advantage in one respect, that is, making the rent keep more closely to the varying value of such property as coal mines?—*Mr. Taylor.* We do not in point of fact find that in practice. When you let for a term of fifty or sixty years, it does not materially vary in the whole of the term. I am speaking of freeholds for instance, and this is analogous; we sometimes make, in the lease, a change in the amount of rents under peculiar circumstances.

2138. When a coal mine has been open for seven years, can there be any difficulty, seeing that then you are enabled to get the actual produce?—*Mr. Taylor.* No.

2139. When

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2139. When a mine is just opened can you get at that as nearly correctly as possible by taking the workings of an adjoining colliery with similar machinery?—*Mr. Morton.* Precisely so.

2140. And even when it has been opened for seven years, as I understand you, Mr. Morton, that if the viewer thinks a mine might be worked more advantageously he adds something to the fine in consideration of that?—*Mr. Morton.* Yes.

Mr. Taylor.—If you would permit me I would explain this, as to what is the amount to be added. The viewer does not add to the ratio of the tentale or to the amount; he assumes that the colliery is getting into a better state, and will produce a larger quantity of coal; and on that account the rent will be more.

2141. Does he proceed upon the supposition that the total yield of coal will be more?—*Mr. Taylor.* Yes.

2142. And that there will be a greater number of tens out of which the rent may be calculated?—Yes.

2143. Is that not speculative, what it will yield, arising from the losses of fire-damp and water in the mines?—Yes.

2144. Does not the same principle apply with regard to land; that you may assume that there would be murrain in cattle or blight in wheat?—Yes.

2145. You have been speaking of the mine that you hold of the bishop's lessee. What are the terms on which you hold that mine from the bishop's lessee?—We stated the total amount. We have calculated a certain number of years, which would easily show what it was. In point of fact we agreed to pay, and did pay, for the first eleven years, 1,000*l.* a year to Lady Barrington for working a certain quantity of coals.

2146. Was that dead rent, whether you worked or not?—Yes; at that rent we had the privilege of working; but we paid under any circumstances. These figures have reference to Ryhope, where we never got anything.

2147. You stated that you paid this rent for the power of working a certain quantity. What certain quantity do you refer to?—A certain stipulated quantity.

2148. Could you not for the 1,000*l.* a year have got more than that certain quantity?—No.

2149. What was the quantity which you were limited to get for the 1,000*l.* a year?—That was exactly 1,000 tens. We agreed to pay 20*s.* per ten.

2150. Are these tens *tons?*—No.

2151. Will you explain what a ten is?—A ten is eighteen and one third chaldrons which is about forty-eight tons and ten cwt. We said we were to pay 1,000*l.* a year for 1,000 of these tens. We afterwards agreed to pay more; that is, after a certain time we agreed to pay 1,300*l.* and afterwards 1,500*l.* a year; that was, assuming that we should go on well; but we never have begun actually, and altogether we have had to pay the sum of 23,850*l.* 7*s.* 11*d.*, though we have power now to make it up. In the interval we have lost the interest of course.

2152. You have paid no fine?—No; we had nothing to do with the fine. In that case Lady Barrington paid the fine.

2153. You did not agree to pay her any fine?—No.

2154. What was the term you took it for from her?—We took it nominally for thirty-seven years, but we had a clear understanding that it would be renewed afterwards for upwards of forty years, and we never entertained a doubt ourselves as sub-lessees upon that score.

2155. You three gentlemen come and speak as coal owners and persons working mines; can any of you give information as to the mode in which, when a bishop deals with his immediate lessees, as in this case of Lady Barrington, he calculates a sort of rent on which the fine is to be based?—I have given the case of Easington, in which I was the direct lessee from the bishop.

2156. And you are also a worker of a mine?—Yes.

2157. Are there not many cases where the direct lessee from the bishop, such as the case of Lady Barrington, lets to other persons who work the mine?—Yes.

2158. I want to know in that case when Lady Barrington, or a person similarly circumstanced, comes to renew her lease, or her seven years fine, on what terms would the bishop deal?—The principle would be precisely the same; it would have reference to the sum she was in receipt of. I do not pretend to give it very accurately.

2159. If in that case of Lady Barrington it had been the bishop with whom you had been dealing, what would have been his terms?—The only difference in that case would have been that the bishop would have received our rents direct.

2160. The bishop would have taken the fine, would he not?—Precisely.

2161. What would have been the fine which the bishop would have taken?—It would have been 1,500*l.* in the first instance. If it was 1,000*l.* a year we paid, then the fine would have been 1,500*l.*

2162. Would he have got 1,500*l.* every seven years?—Yes.

2163. Does not Lady Barrington get five times that?—Yes; she would get five times that.

2164. Is it not then the case, that if you are dealing with a private individual you pay five times more than you would in the same case to the Church?—Is it meant by that question, if we were dealing with an individual who had the estate in fee without any reversionary interest?

2165. Take the case in this way; we suppose Lady Barrington to have given to the bishop her 1,500*l.*?—Yes.

2166. For that 1,500*l.* does she not get 7,000*l.*?—Yes; she gets 1,000*l.* a year for seven years.

2167. And does she not pay the bishop 1,500*l.* for those seven years?—Yes; I assume that that is the case.

2168. Upon the common principle of dealing, is not that so?—Yes.

Mr. Morton. I should wish to state, in regard to Lady Barrington's case, that she had held this property for many years, and must have paid many fines upon it before she let it to the present lessees.

2169. Does she pay those fines for it as mining property or as agricultural property?—*Mr. Morton.* As mining property.

2170. In the case of the first letting of a mine, when there has been no experience, does the lessor take an estimate of what the mine would probably be worth for the first twenty-one years?—*Mr. Taylor.* In reference to freehold or leasehold?

2171. Leasehold?—We, as tenants, make the best estimate we can, what quantity of coal we are likely to work, and what the advantage would be to us.

2172. Were the Shotton works opened by you at the time you paid your last fine?—They were opened by us when we paid the last fine.

2173. Were you then in the position of starting for the first time on a new understanding with the bishop?—Yes; it was the first time we decidedly knew what the mine was capable of doing. We could not tell previously. We expect to extend our works very greatly. We have not hitherto won the best portion of the coal.

2174. When you made your bargain with the bishop you had then a fourteen years lease in existence?—We had.

2175. When was the lease first taken of Shotton colliery?—I cannot answer that.

Mr. Philipson. Substantially all the coal has been let and held by the lessees for a long time back, and therefore we cannot give you the origin of it. The bishop is simply in a position of holding it. It may be let to Lord Durham's family, and to other families, they paying the rent and fines for a great series of years, and afterwards dealing with sub-lessees. In the very case of Lady Barrington, as to which the proportions of the fine paid have just been mentioned, it must be borne in mind that when that proportion was fixed the Church only had a reversionary interest and not a possessory title.

Mr. Morton. When the lease was let to the late Lord Barrington of this tract of country it was considered that there was no coal under the magnesian limestone, and it is not much above twenty years since it was discovered to be there, and all the viewers and colliery engineers stated it fully as their opinion, that there was no coal under that district at all; therefore it was a mere speculative bargain on the part of Lord Barrington, and he might have paid the fines, whatever they were, without getting anything in return for them.

2176. Do you suppose the fines paid by Lord Barrington were very small?—I do not know what they were; they must have been small. I believe the previous lessee of Lord Barrington gave up the lease.

2177. According to your statement you consider this coal, being found in the state it is, is a kind of windfall?—*Mr. Morton.* Yes; at that time nobody would have given anything for the coal. It was the opinion of Mr. Buddle and several other eminent men of that day that there was no coal under the magnesian limestone.

Mr. Taylor. You had better say that that was Professor Buckland's opinion. I held a different opinion myself, and I gave evidence in the House of Lords in 1829 very different from that.

2178. Did you think that there was coal?—Yes.

2179. You were not afraid to take a lease of it, were you?—I was not afraid to take a lease of it.

2180. And have you taken a lease?—Yes.

2181. Were you of opinion that it would be a safe speculation at that time?—Yes.

Mr. Morton. Until the Hetton colliery was won, about twenty-seven years ago, the firm conviction generally among the miners was that there was no coal under that magnesian limestone.

Mr. Taylor. It should be stated that we have a large quantity of magnesian limestone overlaying that coal, which makes it very difficult to win, and fifty or sixty fathoms down there is a bed of sand containing a large quantity of water, which it is scarcely possible in some cases to get through.

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2182. Have any of you three gentlemen any plan to propose that you think would be a desirable modification of the present system?—*Mr. Taylor.* We have stated here that if it were desirable to make it a money payment it might be done. Instead of making it once in seven years, it might be paid annually on the actual proceeds as rent.

2183. Do you mean upon the annual proceeds of the mine?—Yes; or if it were enfranchised it might be done in that way.

2184. Would that depend upon an examination of the books of the parties?—Yes, every year. There is no difficulty about that. The books are open the same as in the case of freehold mines. There is no difficulty about ascertaining the quantity.

2185. Do you mean that there should be a proportion paid according to the quantity?—Yes.

2186. You do not mean a proportion of the profit, do you?—No; I mean a proportionate rent that arises from the produce of the colliery.

2187. I want to know whether you are to give your superior lessors a proportion of the net profits of the previous year won, or a proportion calculated upon the quantity won?—Upon the quantity won, and a certain fixed rent, the tentale.

2188. Irrespective of profit?—Yes.

2189. May there be more or less profit, according to the market?—Yes; and there may be no profit, and a high rent.

2190. In the case of freehold mines, are any of them let for any annual payments of any kind?—Yes, commonly. I have let mines very extensively myself. In freehold mines, that is the way of doing it.

2191. Then there would be no difficulty of putting upon them an annual rent?—No.

2192. You have mentioned sixty years, which is a very long term; have you any notion, on the average, what is the duration of a colliery of that kind; is that generally marked out under sixty?—It depends upon the extent of the royalty, the thickness of the seams, and the quantity worked; that can be all matter of calculation.

2193. Has it ever been so far matter of calculation that you can tell us what the average duration of a colliery is; that is, supposing the Church were to count upon a rent of 1,000*l.* a year, or any particular sum, have you any means of telling us for how long a period that would probably last?—We could approximate to it after we had ascertained what the seams of coal were, what they produced, and the extent of royalty; we could form some opinion then how long it would last.

2194. Would not the quantity vary a little according to the improvements of science and the demands of the market?—Yes, and in many cases it varies greatly.

2195. And would it not vary from those circumstances as to its duration?—Yes.

2196. For instance, are there not collieries that it would not have been profitable to work, and would hardly have been estimated as to value a few years ago, which, from improvements in machinery and science generally, are workable now?—Yes. The capabilities of working are now much more than they were before; but, unhappily, the state of trade is worse, so that there is a less chance of working extensively now than there was.

2197. Would not those two elements vary very much the estimate of the duration of the coalfields?—Yes; to arrive at any conclusion upon that subject we must only take assumed data.

2198. For certain purposes, with which we have nothing to do here, it might be exceedingly desirable that the Ecclesiastial Commissioners would like to know how long a colliery would last. You have been speaking of sixty years, as that is the longest time you have mentioned. May we not assume that no colliery is expected to last much longer than that?—Yes. I should hope that they will last much longer than that. It would be a very serious affair if all the collieries were to be wrought out in that time, even those which are now in operation.

2199. I want an approximation of the average duration of a colliery, anything as rough as you please. Supposing that the Ecclesiastical Commissioners have a revenue of 10,000*l.* a year from mines in Durham, now how long do you think they may calculate upon receiving that 10,000*l.* a year?—A very long time indeed. I am not the bishop's agent. I am only a coal owner, but I gave evidence that our coal fields would last 1,700 years. Since that time we have had a great increase of demand, but even at the present vend I think we have enough for 1,000 years or 1,200 years. The bishop and the dean and chapter have a very large proportion of the county of Durham coal, though I will not undertake to state, or even to approximate to, the exact extent possessed by them.

2200. Is it within your own recollection that several ecclesiastical collieries have been worked out?—Yes, but they were very small concerns.

Mr. Morton. And I should state, with regard to that, that it was parts of them only that have been worked out, and that they have other fields to go to.

2201. Are there any limitations upon the life estate in collieries as to the amount of working that is permitted, or has a person who is only tenant for life any limit as to his power of working in the case of a freehold?—*Mr. Taylor.* No, none.

Mr. Morton. I have never seen such a case.

Mr. Philipson. There may be a question there of the right of opening a mine, which is, whether a tenant for life could open a mine.

2202. Is it the custom for the tenant for life to open a mine?—*Mr. Taylor.* There has been a change in that respect. The Duke of Northumberland is the largest coal proprietor in Northumberland; formerly the duke himself opened several mines. At that day, sixty or eighty years ago, there was not capital to be found nor the spirit of adventure in lessees that there is now, but generally it has not been found necessary that the lessor should open or work mines himself, and there is scarcely an instance of it, although there are a few; but as to the right, the tenant for life has a right, as far as I know, to do so.

2203. Is it usual in selling an estate to give a power to the tenant for life to open mines?—*Mr. Philipson.* Yes, it is so.

2204. Is produce considered as capital or revenue; that is, does the tenant for life consider that as annual value, or does it become capital?—*Mr. Philipson.* Just as revenue. He disposes of it as he pleases.

2205. With regard to wood; a tenant for life cannot cut down wood, can he?—*Mr. Morton.* That may be so, but this is generally considered as revenue; and I should think a tenant for life could work open mines to any extent.

2206. Is it usual in the mining countries to give the tenant for life a power to open fresh mines?—*Mr. Morton.* Yes.

2207. In the case of family settlement, when a tenant for life has power of opening mines, are there any restrictions as to dealings with the produce?—*Mr. Philipson.* He is to obtain the best rent that can be obtained.

2208. And taking no fine?—And taking no fine.

2209. Supposing it were thought desirable for the purpose of the lessor that this tentale rent and the seven years fines should be reduced to an annual payment for the purposes of the lessee. Are you of opinion that such a change is desirable?—*Mr. Taylor.* I think whatever adds to the permanency of the tenure is desirable for both parties, and I think it is beneficial for the lessee, and that instead of having to pay a large sum at a given period, it would be better to pay it annually.

2210. That is to say, to pay the same sum, but only in seven years payments instead of one?—Yes.

2211. Did you not take it at a fifth?—That is what we are absolutely paying. I merely mention that as a fact.

2212. Do you not get the fifth in the one case down to the end?—Once in seven years.

2213. But in the other case you would give only a seventh part of the fifth or fine, year by year; is not that so?—Yes; it would be given year by year.

2214. That would not be quite an equivalent, would it?—They begin immediately to obtain it, and at the end of seven years they would have the whole in their possession.

2215. But, having reference to the interest of money, if I am now going to renew, and expect 7,000*l.*, if, instead of that, I am told I shall have the 7,000*l.* in seven years, that does not amount to the same thing to me, does it?—You would put up your lease to the given time; you would renew up to a certain time, and then commence the operation of annual payment.

2216. Supposing, instead of renewing the lease at a fine, that they were to renew the lease upon condition that at the end of fourteen years you should act upon the customary tentale that is paid in the case of a freehold; how should you like that?—It would be swamping our interest. In that case we would never have won a colliery; if we have the interest which we conceive we have, especially as in mines the rate of years purchase is altogether different from land.

Mr. Philipson. I will state practically a case, to show how that would work. I am myself the lessee under Lady Barrington of some coal at Harton, having a lease from her of sixty-three years actually granted, her own term being only twenty-one years, she binding herself to do all that she can to obtain a renewal, and to pay the fines. Owing to the non-settlement of this question, no winning has been made in that royalty, and until it is settled none will be made. If a power of granting for a longer term be not conceded, Lady Barrington's interest, which may be taken at seventeen and a half years, being the average duration of a twenty-one years lease, would be valueless; it would confiscate her property in fact, because we should immediately give notice to quit the royalty, for which we pay her now about 2,000*l.* a year. Her interest in the seventeen and a half years would not warrant the expenditure of 70,000*l.* or 80,000*l.*

2217. Have you the power of giving such notice?—*Mr. Philipson.* Yes; there is always power reserved in the lease of quitting on giving twelve months notice; therefore, practically, her property would be gone. The interest of the different parties as they stand would be this: Lady Barrington would lose her interest altogether, the Church would obtain nothing for seventeen years and a half, because Lady Barrington would hold for the seventeen and a half years, and the Church would have no interest until it expired.

2218. Sup-

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2218. Supposing by law you were endowed with legal power to enforce a renewal, so as not to depend upon whether Lady Barrington renewed or not, would not that add considerably to the value of your interest, depending as you would upon the legal power rather than relying on the present expectation?—*Mr. Philipson.* Yes; undoubtedly. If by law that could be so done.

2219. Suppose, in immediate leases from the Church,—suppose the Church were empowered to covenant to renew periodically from time to time, and to give an absolute renewal from time to time, and, instead of the expectation, it were a certainty, what should you say would be the effect of that?—*Mr. Philipson.* It would be giving an absolute certainty instead of a moral certainty, and, of course, that is worth something.

Mr. Taylor.—It would be much more important now than it was formerly.

Mr. Philipson.—It would be most important now for the interest of all parties.

2220. Do you mean that formerly there was considered no difference between the moral certainty and the absolute certainty?—*Mr. Morton.* Yes; and I should say that the agitation of the question now has made a great difference in the value of that property.

2221. What should you state would be the difference in the value of the property?—*Mr. Morton.* No person would expend money in the winning of a mine, at least in making expensive winnings, and a large outlay of capital.

2222. Supposing the case of two old mines at work, what would be the difference in this case, one with a power of compulsory renewal, and the other without?—*Mr. Taylor.* It would be in favour of the tenant who had the compulsory right of renewal.

2223. What would be the difference in value of two mines so situated?—It is impossible to state this with precision, as it depends so much on the local circumstances of the case. No winnings would be made where a large capital was required upon a twenty-one years lease.

2224. Can you give any instance of the difference between the value given for a lease under parties who could covenant legally for renewal without any contingency, and in the case of a lease with parties who could only give this moral security of renewal?—The answer I should give would be that I think the bishops leases let as well as freehold.

2225. Would they at the present time?—No; I do not think they would.

2226. Do you mean that they have hitherto secured the same terms as freehold?—Yes; I think I know as a fact that it is so. I have had both descriptions.

2227. Do you mean that the same price has been given for bishops leases as for freehold land in respect of coal mines?—Yes; I mean as to the rental.

2228. The question of renewal you think has not entered at all into the calculation?—I do not think it has, they have relied upon one as much as the other.

2229. Supposing at this moment a law was passed giving you the power to compel the renewal of your lease; would not that add to the value of your interest in that lease?—I think it would.

2230. Can you go one step further, and give a notion at all what it would add to the value of your lease?—I speak on this part of the subject with diffidence, and with the understanding that I am addressing the Commission as an individual, without being authorized to convey the sentiments of the trade. I have stated that the Church is now in receipt of an absolute fifth, but I think that one half or even one share more might be given if there was a certainty. My meaning is, that if the Church leaseholds are to be made similar in certainty to freeholds or enfranchised leaseholds, then the lessees might pay a fourth and a half, or a fourth, which last would be an increase of twenty-five per cent., instead of the present fifth.

2231. Do you agree to that statement, Mr. Morton?—*Mr. Morton.* I do.

Mr. Philipson. I do, also.

Mr. Taylor. If instead of the fifth actually paid it were made a fourth, the increase would be twenty-five per cent. on the present rental received by the Church; if a fourth and a half, there would be twelve and a half per cent. absolute increase of rental.

2232. Do you think that that would not be such an increase as would discourage future enterprize?—I do not think it would, if there was a certainty. In fact it would be equivalent then to enfranchisement, there would be absolute certainty; and I do think myself that for that certainty there should be a premium paid.

Mr. Philipson. With regard to an observation which has been made upon my statement, that a lessee of Lady Barrington would give notice to quit, I should mention that there is a clause in all leases, both in Church leases and all freehold leases, that you can quit a colliery at the end of twelve months, sometimes every three years. And it is merely for this reason that a colliery is not by any means a certain speculation, when you commence; and that if a man were compelled to pay a certain rent for forty years or sixty years, which is the usual duration of a freehold lease, he would be utterly ruined. But the lessor has no power to give the lessee notice to quit. The lessee has the power every year in most cases, but every three years certainly.

2233. When the lessee quits does he carry away with him all the machinery?—*Mr. Philipson.* Yes; but that amounts to a very trifling matter in winning a colliery. The expense

expense in winning a colliery is the great outlay of labour; the materials after a certain time are very small.

Mr. Morton. The materials indeed are worth nothing. If a colliery is abandoned on account of turning out ill, that it is not good coal, and therefore not profitable to work, you can only sell that stock as old metal, you cannot sell it as current going stock, which would make a difference of nearly half the value; the machinery sells almost for nothing.

2234. If you could transfer that machinery to other workings, would it not then be nearly of equal value to what it was in the then working colliery, at least according to the length of time it had been in use?—*Mr. Morton.* Yes.

2235. Although you said that the whole field would not be worked out when you got a lease for any quantity of coal for sixty years, is it not upon the notion that you will work that quantity which you take in the time?—*Mr. Taylor.* Oh no, it is not so at all; it would never do if all the collieries and coals were in the operation of working at the same time. We have a very much larger extent than for twenty-one years; sixty years is a considerable term. There is no general rule that you can lay down. I may take the liberty of observing, in reference to Mr. Philipson's statement about Harton, if they had not the anticipation of renewal they would give up that royalty immediately which has not been won; and the same observation would apply to Ryhope; we would give it up the first year if we had the least doubt of Lady Barrington's privilege of renewal, and then we should sacrifice the 23,000*l.*, because if we went on we should only be getting deeper and deeper in loss. I need not draw the attention of the Commissioners to the difference in value between the number of years purchase of mines and land; we do not come to speak of land. The years purchase of common land are from twenty-six to thirty. We estimate these mines at twelve and a half years purchase, which is the same estimate as regards freehold coal.

2236. With regard to collieries is it not a great lottery?—Yes; it is most high gambling.

2237. Although a coal field may be very well known, may it not happen that different mines are much more expensive in the working?—*Mr. Morton.* Yes, that is so; and also the chance of the coal turning out bad.

2238. Do you state that a colliery is twelve and a half years purchase?—That is the lessor's interest in the mine, the lessee's interest is much less, being seven or eight years purchase.

2239. When I speak of a colliery I mean a mine. Do you mean that that is worth twelve years and a half's purchase?—Yes; that is the fact in an explored mine.

Mr. Morton examined.

2240. Do you wish to make any explanation upon this?—I should wish to mention that this property in coal mines is very commonly the object of sale and transfer from one private individual to another. In the sale of a mine the mineral value is twelve and a half years purchase, that is eight per cent. The coal field is probably in the neighbourhood of other coal mines which have been worked; and there is a pretty strong certainty of its being of similar description, as much certainty as there can be in any case as regards coal mines, that it will be of the same value and the same quality. The regular price is twelve and a half years purchase. I bought on the part of Lord Durham twelve years ago 500 acres, and paid that rate. I purchased the mines and the land also.

2241. Would not the land in that case be estimated at one price and the mine at another?—Yes; totally different.

2242. Would they be separate ingredients in the purchase?—Yes; totally different.

2243. Does not the number of years purchase vary according to the prospects of the mine?—I think a remote coal field, which could not come into operation for many years, lying at a distance from the port of shipment, would be of less value than that. When I speak of twelve and a half years purchase, that is for coal lying in the immediate neighbourhood of mines that have already been explored, and not distant from the place of shipment, advantageously situated for working and vending, and of good quality.

2244. And do you mean under the most disadvantageous circumstances?—Yes. There is much dormant coal, such as we hold under the bishop, for which nobody would give us twelve and a half years purchase.

2245. Are these dormant collieries not worked at all?—No.

2246. Do they yield any interest to the lessor at all?—None whatever. I believe the family have held it above a century, and it has never been worked, except in one instance, there was a little part of it worked; but it did not suit the market at the present day, and it was shut up. There is so much good coal in the market that that description would not sell to any profit; it is lying intermixed with a good deal of Lord Durham's freehold property, under which there are mines all dormant at present; but which at some distant future period will be worked, and will come into the market when the better fields of coal which are now being worked are exhausted, and which may, perhaps, be sixty or seventy years hence.

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2247. When it comes to be advantageous, or supposed to be advantageous, to open these mines, will a new arrangement take place between the lessor and lessee?—Yes.

2248. Will the lessee say, "I am desirous of entering into this adventure, and I come "to treat upon terms with you?" Would that be the course?—No; the bishop would vary the fine. He would say, "This is about to be put into activity, and I must have a "larger fine." But Lord Durham would still have the fourteen years interest in the mine before the bishop could derive any emolument from it, unless a fresh renewal were agreed upon.

Mr. Philipson retired.

2249. How would he become aware of the intention of the lessee to open the mine?—Probably we should give him notice, or the bishop's viewer would know that; he is always looking about him; and we should probably give notice to him that we were going to open it. We should not open it until the lease was filled up for twenty-one years.

2250. Would you not then be in possession of the land for twenty-one years?—No; we have only the coal, we have not the surface, and nothing to do with it whatever.

2251. You would not commence operations, would you, except when the lease was full?—If there were fifteen years of the lease to run, we should not think of commencing operations until we had filled it up in the twenty-one years, which would not be done until the seven years had expired.

2252. Would you do that giving notice to the lessor that you intend to open the mine?—Yes.

2253. Then, in fact, would you have more than fourteen or fifteen years interest in the mines before you began the negotiations?—No; not the negotiations.

2254. What would be the terms on which the arrangements would be made between the lessor and the lessee?—To fill up the next seven years the lessors probably would not charge more than what they had previously charged for a renewal.

2255. Do you mean that they would give the additional seven years without any increase of fine?—Yes; without any increase of fine, because it would be two or three years before the colliery could be opened, and even after that only a small quantity of coal would be vended for the first seven years.

2256. What would be the next step?—Then it would be wrought for the next seven years, and when the term was reduced to fourteen years again the lessee would apply; the viewer then would come, and he would examine all the accounts, and see the quantity of coal that had actually been sold since the opening of the mine, and he would put on the fine accordingly.

2257. Then do not the terms for opening a mine come into consideration until after the mine has been opened?—No.

2258. Then it is never quite upon the speculation as to the result that the fine is to take, but there are certain data upon which to proceed before the parties meet?—Yes; they would judge of that from the adjoining colliery, if there are any workings in the neighbourhood; but if there are none in the district immediately adjoining in activity, then they would see the power of the engines and all those things, so that they could form a very accurate idea of what coal could be got and sold, and they could do it in that way pretty accurately.

2259. Should you put any of the machinery and so on upon the ground before you proceed upon the terms?—We should not commence to win the colliery until the lease was filled up of twenty-one years, and we would not even win it then if we were not certain of renewal.

2260. Speaking now independent of renewal, but having reference to the terms of renewal; supposing the lessor, when the terms have to be arranged, were to say, "I will have two or three years instead of one year and a half;" what would be the course?—But it has been the invariable practice not to ask more than one or one and a half. I do not know of one instance to the contrary.

2261. Has that been so invariable a custom that it has always been taken for granted?—Yes; it is so universal a custom that it has been deemed a right on the part of the lessee.

2262. That is the datum point which you take with you, that the lessee says, "I shall "have to pay at such a period a year and a half's fine?"—Yes.

2263. Do you think that they would refuse to open upon a fine of two years?—I do not know whether they would open at all upon an additional half year to the fine. This would depend greatly upon circumstances and local advantages.

2264. Have they ever contemplated the possibility of such a thing?—No, I have not. I think a question has been asked as to whether we could point out any plan by which a more certain payment could be made, and which would insure us a perpetuity or a long lease in the concern, rendering the tenure more stable and firm. It might be dealt with as freehold coal for instance. We know the value of freehold coal. It could be valued in this way: one person appointed by the lessor,—by the bishop or dean and chapter, as the case might be, and another by the lessee; they might value that coal as freehold coal, and

ascertain

ascertain by the tables what would be the interest of the lessor and lessee upon that valuation, and that might be converted into an annual payment which would last as long as the mine.

2265. Will you state a case, and compare the difference of the result of acting as you now act and the result which would be produced from acting in the way you suggest, taking for that purpose any given convenient amount?—Supposing it to be freehold coal it would be worth twelve and a half years purchase; that is the common price.

2266. Is that supposing the freeholder is winning his own coal or letting it?—That is when he is selling the mine. I am proposing to deal with Church property as if it was freehold. If a freeholder were going to sell his mine that is not upon lease he would ask twelve and a half years purchase, and he would not get more. Supposing the lessee's interest to be seventeen and a half years, that is about the average of twenty-one years at eight per cent., that would give nine and a quarter years as the lessee's interest; then the lessor's would be three and a quarter, making altogether twelve and a half, allowing the same per-centage upon that coal which the freeholder allows when he sells his.

2267. By that plan would not the lessor be giving up all the advantages from the future workings and winning of the mine?—No; this would be converted into an annual charge.

2268. Would it be variable with the increased produce of the mine?—No; that is his entire interest in it.

2269. What would that give him according to the tables?—Why it would give him something more than what he gets now, than the fifth.

2270. Would not the lessor lose all the profit arising from the increase of the tentale?—If you were to take the whole quantity of coal in the first instance, take the whole quantity in a particular plot, supposing it to consist of 500 acres, he would calculate the quantity of coal contained in this area, according to the thickness of the seams, as so many thousand tons; then they would say nine parts and a quarter of that belong to the lessee and the other parts belong to the lessor. The whole of the coal would be subject to the lessor's interest.

2271. You would not take the value of that mine as it is now, would you?—You would take in the whole quantity of coal lying under the surface of the 500 acres the same as if you were going to deal with freehold property. There is no question then about quantity; they might work it or not.

2272. Valuing it at twelve and a half years purchase and eight per cent., that is supposing it to be explored?—Yes; you will not get that unless it is explored and known to be marketable coal.

2273. You do not mean by "explored" that the colliery is won, but ascertaining that the coal is there?—Yes.

2274. And then you would get twelve and a half years purchase?—Yes, for the best situation.

2275. How many years would a colliery sell for that is won?—In purchasing collieries that are won and at work the purchasers generally estimate that they should have twelve or fourteen per cent. for the sum invested by them to cover risks and accidents.

2276. Supposing you were to sell a freehold after it was won, how many years purchase would that colliery sell for?—I never knew an instance of that. I never knew a coalfield sold with a colliery; but if you were going to buy a share in a colliery, the common practice is that you should be allowed fourteen per cent. for your money, from twelve to fourteen per cent.,—you pay your rent over and above of course,—but merely for your share in the mine; that is not the landlord's value in the mine.

2277. Are not the shares sold like railway shares?—They are constantly sold; they are continually in the market.

2278. Have not large collieries sometimes a hundred partners?—Not so many as that; but there are constantly shares in collieries for sale.

2279. Do people expect a considerable profit owing to the uncertainty?—Yes; but I may state there has been very little profit made. Lately there have been a few fortunate people, coal owners, who have made large sums, but the average parties in the trade have not made large sums; numbers sustained heavy losses.

2280. Does not that apply to lately only?—It has been so at all times, but more so lately; in selling shares of a colliery, the general rate of profit allowed is from twelve to fourteen per cent.

Mr. Taylor. That is nominal amount only.

Mr. Morton. I do not believe they have paid five per cent. upon an average. Although there are some lucky parties who have made more, while others have been ruined.

Mr. Taylor examined.

2281. Have you any further observations to make?—Having been invited to submit a proposition, I did so with great deference. I wish to explain that if it should happen to be entertained, it would have to be arranged in something like this way. It would not do for the Church to fix arbitrarily what the tentale rent should be, because that would defeat the very object in view in making it permanent.

2282. Do

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2282. Do you mean that you imagine that they would estimate too large an amount of coal supposed to be got?—No, that would not affect it in this case; that is an advantage in the plan. No matter what the demand is, the Church would participate in its full share. On this plan you would get the proportion of whatever the actual revenue proved to be.

2283. Have you reduced that into writing?—I have stated here that at present it is one fifth, and I have stated that I think the lessees would give one share more, which would be a fourth, if they had a permanency of tenure; but I wish to add, coupled with that, that it would not do to say, "We would give that absolutely." If the Church were to be allowed arbitrarily to fix any rate of tentale they chose, I have no doubt the tentale would be agreed between the parties as it has hitherto been; but if it should not, then there would have to be some independent tribunal to be appointed to arbitrate between the parties.

2284. How is it settled now?—It is settled between the parties; the bishop's agent generally states what he will have, and then they reduce upon representations being made that too much has been asked.

2285. Do you think, upon a fair estimate of the thing, that they might get a fourth or a fourth and a half?—Yes, I am of that opinion; and if a fourth, that would be an increase of revenue of twenty-five per cent; if a fourth and a half, the increase would be twelve and half per cent. to the Church. I submit this with great deference. I may add that if it was desirable that the proposed plan should come into operation, in all cases, at the same time, an equitable arrangement might be made, commensurate with the different periods, prior to the next renewal.

Mr. Morton. That is in one way of dealing with it; the other would be dealing with it as freehold.

Mr. Morton examined.

2286. Would that be the case of a certain sum being paid down for the interest of the Church, or a certain rent-charge, which would be equivalent to paying down that sum?—You may make it either way, either a payment down, or to be paid at the end of three or five years, bearing interest from the time of purchase; a little time must be granted. The coal owners are not very plentiful of money just now, quite the contrary, or you might convert it into an annual payment for the duration of the colliery.

2287. Would not the latter be more convenient?—Yes, more convenient.

2288. Would not the raising money on the colliery be a bad thing?—You might raise money on a colliery, but it could only be done on a colliery that was actually working.

2289. You have spoken of the circumstances of a case of 500 acres. If you were to take an annual sum only for the duration of that colliery, might there not be a danger of soon coming to an end of that annual payment, considering it is only 500 acres?—Then the parties would get their fair proportion of the rent-charge; the value of the coal would be first estimated. Supposing it was to be paid down in money, the question then is, what is the share of the lessor's interest in that coal field, either to be defined in ready money at once, or what is their interest worth by way of annuity for so many years, taking the duration of the colliery at a certain annual vend.

2290. It is matter of calculation, you mean?—Yes.

2291. You have stated, have you not, that a good many mischances may arise which may put an end to the mine at once?—Yes. I am quite certain of this: without there is a perpetuity of tenure given to those engaged in working the mine, that it will, from the agitation that has arisen lately upon this subject, tend to diminish the value of mines, both to the lessor and lessee.

2292. Will that also diminish the supply?—No; but the supply will be got from freehold coal. So much is continuity of tenure deemed requisite in all these calculations that in a colliery in which I am concerned on behalf of Lord Durham, as his agent,—the lease is for sixty-three years; it is a freehold property; the covenants contained in the lease are to renew on the same terms at the end of sixty-three years, if required;—so much is it deemed essential, from these heavy expenses, arising from a costly winning, that the lease is for sixty-three years, and there is a covenant to renew at the end of sixty-three years, if required, and that is freehold coal.

Mr. Taylor. We are in great hopes that some good will arise out of this Commission, as we feel quite sure that there is a capability of producing benefit to all parties.

2293. Are you aware whether the dean and chapter and the bishop (remembering that they have no interest in the question themselves in one respect, and that it is merely the Church itself which is concerned,) would have any objection to an arrangement such as you are proposing?—*Mr. Morton.* I should think it would be decidedly beneficial to them; they would get immediately an increased revenue from our principles.

2294. Are you aware that the increase of the revenue would go to the Church at large?—I do not know how it would be appropriated. It might be arranged with them that their interest should not be lessened, which would be decidedly more beneficial to them. Their present interest from what they now get is only one and a half on the nine per cent. table.

2295. Would they not get a more certain and fixed income?—Yes; and it would give a stability to the whole.

Mr.

Mr. Cooper Abbs examined.

2296. Where do you reside?—I reside at Newcastle-upon-Tyne.

2297. Have you any statement that you desire to make to the Commissioners upon the subject of Church leases?—I have. I have been upwards of twenty years in practice as a solicitor in that town, and in the borough of Sunderland in the county of Durham, with which I am more particularly connected by family and property. I am well acquainted with the nature of the Church leaseholds in that district, and have had extensive professional dealings with such property for clients and members of my own family possessed of it. I have been deputed to attend and give evidence before this Commission by a committee appointed at a meeting of persons interested in the dean and chapter leasehold property in the townships of Monkwearmouth, Southwick, and Fullwell, held in the borough of Sunderland on the 8th instant. The township of Monkwearmouth comprises upwards of 400 acres of arable land, and about 100 houses of this description of property, with some ship-building and timber yards adjoining the river, and an extensive colliery, and it is situated entirely within the limits of the borough of Sunderland. The township of Southwick is beyond the municipal but within the parliamentary borough of Sunderland, and contains upwards of 500 acres of leasehold, besides about 200 acres of freehold land, and about forty or fifty leasehold houses, with an extensive earthenware manufactory, ship-building and timber yards, and other valuable property contiguous to the river, and quarries of limestone, also held under leases from the dean and chapter, which are connected by private railways with limekilns and the river, from which lime is shipped in large quantities. The township of Fulwell is entirely beyond but contiguous to the boundary of the borough, and contains 700 acres of arable land, a village, and an extensive limestone quarry. The arable land is all in a high state of cultivation in each of the townships; and the amount of property so immediately connected with the port of Sunderland renders this district of Church leasehold property of considerable importance in such an inquiry. The lessees have become alarmed at the nature and object of the inquiry now pending, and at the various propositions that have been promulgated for dealing with this description of property, the most favourable of which will greatly prejudice and deteriorate their present condition. They have hitherto considered that practically they had a permanent prospect of renewal, on terms well defined and understood, and that consequently their property had acquired a fixed marketable value, approaching, so far as regards land, to within six or seven years of absolute freehold. The leasehold interest in the land within the townships used for agricultural purposes has been invariably estimated at not less than twenty years purchase, unless the first seven years of the existing lease had nearly expired, when some reduction might be made to meet an early renewal. On the faith of this marketable value and permanency of tenure great improvements have been made, and the land is for the most part in a high state of cultivation. The property has been purchased, mortgaged, and treated in family arrangements as if it could not be interfered with, either by the lessors or by Parliament, so as to reduce the perpetual annual income of the lessee. The confidence of the lessees in the perpetuity of their tenure has been firmly established by the well known historical origin of it, and the invariable usage of several centuries founded upon such origin. Upwards of 120 acres of land in Monkwearmouth and considerable house property has been held for upwards of a century by my family, and was purchased by them of the Hyltons, who had previously held it from the time of the monastery, and it has been uniformly renewed every seven years. Until the Limitation Act of Lord Tenterden a sixty years title was always required by a purchaser, as in freehold, and his conveyance always includes "all right and benefit of renewal," and in mortgages provision is made for renewal by the mortgagee in default of the mortgagor doing it. The dean and chapter have adopted and act upon a regulation by which they do not charge an improved value on the erection or rebuilding of a house for the two next following septennial renewals, which virtually acknowledges, so far as they can, the principle of renewal.

2298. Have you any document of the kind which you there refer to?—I have an official document from the court of the dean and chapter; but the lessees are informed of it by the agents of the dean and chapter, to encourage them to build upon the property. The lessees, therefore, expect that the original customary or military tenure under the monastery, modified for settling all disputes by the award or order of the 19th of Elizabeth (1577), which was acquiesced in and confirmed by the dean and chapter, under their seal, on the 27th of February in the following year, and the invariable usage of renewal by the exact form of lease prescribed by that order or award down to the present times, have given to this property a character and marketable value which should not be disturbed or prejudiced, but rather ratified and confirmed by any act of the legislature, and at least fully estimated in any improved or altered mode of dealing with the property now to be adopted. Copies of the documents above referred to have, I understand, already been laid before the Commission in the evidence of Mr. Salmon of South Shields, and need not be repeated by me.

Any alteration or additional charge upon the property whereby the present marketable value or the annual income is reduced, will inflict great injury, (in many cases to a ruinous extent,) especially to those who have encumbered and made charges upon the property on the faith of a continuance of that marketable value and annual income. A state of things most forcibly expressed two centuries ago by the certificate or report of the Com-

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missioners appointed to survey the manors, lands, and tenements of the Dean and Chapter of Durham, in the time of the Commonwealth (1649), when this very subject was under their consideration, and the tenant right of renewal fully admitted; after which it proceeds to say, "And it doth further manifestly appear unto us, that the livelihood and subsistence "of many hundred families in the said county do solely depend upon the said tenements "and farmholds, and the benefit they expect by their said claim of a customary estate and "tenant right as aforesaid; and that divers of the said tenants and their ancestors have "continued some hundreds of years in the possession of their tenements, as it appears by "the court rolls of the said late dean and chapter as aforesaid."

That statement is quite applicable to the present condition of the lessees, after exactly 200 years of additional experience and confirmation. Any plan of improved management or alteration, therefore, which does not fully recognize the already existing practical custom or right of renewal, and give it the full marketable value at present enjoyed of at least five years purchase, will operate unjustly and prejudice the interest of the leaseholders as now existing. The leaseholder cannot, therefore, with due regard to his just and reasonable rights as at present existing, be asked to give an increased rate of fine or rent merely to obtain a formal acknowledgement of the fixity of a tenure which he has so long practically enjoyed, and on which the marketable value of his property has already been established. Any alteration or improvement to be beneficial to the lessee must be either by actual enfranchisement or by fixing in perpetuity the amount of an annual or septennial charge, to be unaffected by his future improvement of the property. But to accomplish this it will be perhaps difficult to apply any uniform system, as each particular case is attended by its peculiar circumstances. Where the property is already in its most improved condition, the leaseholder will not benefit by any change from the present system of septennial renewals; but where by the application and expenditure of his capital improvement can be accomplished, and he wishes to realize the full benefit resulting from the expenditure of his capital, it will be his interest to give an adequate consideration for the opportunity of doing so by agreeing to purchase a fixed interest at an increased rate, or by becoming subject to a larger fixed amount of annual rent-charge than he at present pays in septennial fines.

The statement I have made contains the material points I have to bring under the consideration of the Commissioners, on behalf of the leaseholders of an extensive district in the county of Durham.

2299. Would it add much to the value of that kind of property to have a fixed perpetual right of renewal?—To have a fixed amount of the payment, especially to that part of it in and contiguous to the borough of Sunderland, or adjoining the river, where improvements might be effected if it were not subject to an additional charge for these improvements.

2300. Where houses have been erected, do you mean that that would not be increased in value by having a right of renewal?—Certainly not, where the houses are already built, and the practice is already so long established.

2301. Do you mean that it would not add to the value?—Certainly not.

2302. Would they not fetch more in the market than they fetch now?—I think not; as the income would only be the same as the proprietor now enjoys under the existing practice.

2303. If I take your view of the case aright the tenant has a sort of moral expectation of renewal, which you contend should be held entirely intact and not in any degree diminished?—Yes, precisely so; but subject, however, at present to being charged with an increased fine for improvement made by him; which it would benefit him to be relieved from.

2304. If I understand your statement, with the exception of the present improved rent, there is to be no future revaluation, the benefit of which is to put into the hands of the lessor any part of that?—In the event of having a fixed rent, and no increase of it in consequence of subsequent improvement, there is no doubt that in certain situations where property is now capable of improvement the lessees would very willingly give an increased amount in the shape of absolute purchase money, or at a fixed rent, as might be deemed most expedient.

2305. But if I understand you, you would have a positive right of renewal with no future revaluation?—Yes; a fixed unchangeable annual payment.

2306. Does not your proposition amount to this, that there being two parties in presence of each other, one having certain moral expectations not founded upon legal right, and the other certain legal rights derived from the law and the constitution of the land, that the opinion of the party whom you represent is that the moral expectation should be preserved intact?—Yes, as it has hitherto existed for so long a period, founded upon an award in the reign of Elizabeth.

2307. And that the legal right should be extinguished?—Yes; if any alteration is made in the existing state of things that it should be to that effect, and establish the moral expectation, if there are any doubts upon its being a legal one.

2308. Would it diminish much the value of this property you are speaking of now if it were taken out of the hands of the Church and given into the hands of individuals as lessors?—If such individuals or new lessors were obliged to deal in the same way the Church have always done it would make no difference to the lessees.

2309. Would

2309. Would not the moral expectation be much changed if the property were in the hands of private lessors instead of being in the hands of the Church?—In the hands of a private individual regardless of moral obligations, very likely it might be so. But I know of other leasehold property in which there is every faith and confidence; it is held under the corporation of Newcastle, and when the full term of twenty-one years is expired, although there is no covenant to renew, the property is constantly renewed at the expiration of each lease on payment of so small a fine as half a year's annual value.

2310. Is that corporation property?—Yes, corporation property; and the marketable value of that property stands very high.

2311. Are the renewals in the case of that corporate property confined to members of the corporation?—No, they are not.

2312. Do strangers coming in profit by it?—Yes, any stranger unconnected with the corporation or even with the town may purchase and hold that property.

2313. And may they have the benefit of the same kind of custom which you have stated?—Yes, they enjoy the same benefit of renewal, and attended with this peculiarity, as distinguished from the Church leaseholds, that the whole period of twenty-one years is suffered to expire, or nearly so, before the renewal is effected, and even then the renewal is effected at so low a fine as half a year's annual value.

2314. Has this mode of proceeding gone on since the Municipal Corporation Act?—Yes, it has continued since that Act.

2315. Is this house property to which you are referring?—Both houses and land and building ground, of great value; a portion of it was lately taken by a railroad company, and I think the interest of the corporation was only estimated at about ten per cent., or very little more, of the entire value, as assessed by a jury.

2316. Has that been the custom time out of mind?—Yes; that custom of renewal has existed time out of mind.

2317. If individuals were dealing with that kind of property the question then is, "What "would you give to renew"?—If the custom prevailed it would make no difference.

2318. At present the question is by the lessee, "What will you give us?" Does not that alter the position?—I do not clearly understand. But as regards the corporation leases the subject has received great consideration in the town of Newcastle, and has been fully investigated.

2319. The corporation property is all subject, is it not, to certain trusts?—The rents are applied for the general purposes of the borough.

2320. Is it considered, in giving away the rents in this manner, that they are applied to general purposes?—This course has existed from a very early and remote period, and it has never been disturbed.

2321. Does it not look, on the face of it, like a great abuse?—That will depend upon the origin and custom of it. But I beg to be permitted to observe, that I believe Mr. Clayton, the town clerk of Newcastle, will attend to be examined here to-morrow, and he will be able no doubt, if the Commissioners think necessary, to offer any explanation upon the subject.

2322. When this property is sold, does it bring the same value as if there was a certainty of renewal?—Yes, it does. I have the management of a small piece of it, producing a rental of 70*l.* a year, and subject to the small quit rent to the corporation of 3*l.* 6*s.* 8*d.*; and that lease was renewed upon the last occasion for a fine of 35*l.*

2323. What should you get for it if you were to sell it?—I am not quite prepared to answer that question, as the sale of it has not been completed; it is an old house property, and even if freehold not worth a great many years purchase.

2324. Supposing this property in a good condition, how many years purchase should you expect to get for it under the circumstances to which you have referred?—Within two or three years purchase, perhaps, that would be got for it as freehold. A freehold property of that description would be worth fourteen or fifteen years purchase, and this about twelve. I must observe that the corporation consider themselves entitled to the benefit of charging upon the improvements. Their small fine is always charged upon the improved value of the property, I believe.

2325. Are you instructed to make any suggestion on the part of the lessees favourable to the Church, in case any such arrangement should be thought proper?—If any change be made it should only be upon the principle of a fixed amount of rent, or of enfranchisement upon the payment of a sum of money in gross, either of which would be desirable on the part of a lessee whose property is capable of further improvement by the expenditure of his capital.

2326. Presuming it is not land?—No; presuming it is land or other property capable of improvement by the outlay of additional capital. I will briefly state to the Commissioners, if they will allow me, what might be beneficial to both parties. Assuming a piece of land or other property to be worth 100*l.* a year, but incapable of further improvement,

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and subject to the usual reservation for working minerals, it is considered that the fee of such a property in that district would be worth twenty-five years purchase. There is coal and limestone reserved, with the necessary wayleaves and powers for working, which are destructive and annoying to the owner of the land. The value of a lease of twenty-one years is estimated at fourteen years purchase or 1,400*l.*; the customary value of the right of renewal (estimated at five years purchase) is 500*l.*, making 1,900*l.*, the lessee's interest, which, deducted from the fee of such property at twenty-five years purchase, would leave 600*l.* as the gross sum for the purchase of the interest of the lessors, which at four per cent. is equal to a perpetual rent-charge of 24*l.* a year, and that is just about the amount that the lessors are now receiving for this property by the present system of septennial fines. To simplify the question, I have not included the small quit-rents that are paid, the value of which are clearly ascertained. In situations where the property would be improved to a greater extent, twenty-seven and a half years purchase might be obtained for the fee, in which case there would be an excess beyond the lessee's present interest (by the same mode of calculation) of 850*l.*, or equal to a perpetual rent-charge of 34*l.* a year; and there may be some particular situations in which the fee may be worth thirty years purchase upon the present rental, in which case the excess beyond the present interest of the lessee would be 1,100*l.*, or equal to 44*l.* a year.

2327. What do you estimate the interest of the lessee in that case?—At nineteen years purchase in each case in this calculation, exclusive of the claim he may have in the increased value to be occasioned by such a change.

2328. Is not that nearly double, or quite double?—It is nearly double at thirty years purchase. Within the borough of Sunderland there is property which would be redeemed even at that rate; but that is immediately contiguous to the town, and applicable for building ground.

2329. The calculation you have made of twenty-five years purchase was land not covered with houses?—Not covered with houses; land within the borough, but not so capable of improvement as other parts of it which are more contiguous to the town. That is all I have to submit to the consideration of the Commissioners.

Friday, 18*th May* 1849.

Mr. Cooper Abbs.

18th May 1849.

Mr. Cooper Abbs further examined.

2330. Have you any further statement you wish to make in addition to that which you made yesterday?—Yes, there are one or two matters that I wish to state. The first is with reference to the leases held under the corporation of Newcastle, upon which I gave evidence yesterday. I wish to add that I understand the nature of those leases has been fully investigated by the proper authorities, and that the lessees are now allowed to enfranchise under the directions of the Lords of the Treasury.

2331. Do you know the terms upon which this enfranchisement of the corporation property at Newcastle has taken place?—I am not aware that there are any prescribed terms. I can only say in the case of the small property of which I have the management, that we applied to enfranchise, but we thought the price asked was too high, and therefore we preferred remaining under the original tenure; that is, under the existing leasehold tenure, in which there is every confidence.

2332. Do you recollect upon what basis the corporation proposals rested?—I do not know. The usual course is for the lessee to make application to enfranchise, and the corporation communicate to him the prices at which they are willing to do so.

2333. Is that without specifying the data by which they arrive at the price?—Yes; there is no communication of the data or basis on which the calculation of the price is founded that I am aware of.

2334. You took the price demanded into consideration, thought it too much, and declined?—Yes; we preferred remaining upon the original leasehold tenure, in the continuance of which we had every confidence.

2335. Have you no means of knowing what are the principles upon which they base their calculation?—No, I have not.

2336. The original tenure to which you refer is a lease for twenty-one years; and when that lease is run out, then they grant another?—Yes, upon the payment of half a year's fine.

2337. And that has been the case from all time?—Yes, from time immemorial, so far as I know.

2338. And has that continued to be done?—Yes, to the present day.

2339. Is

2339. Is there not an option in the tenant to renew or not, as he likes?—Yes, of course; but he always would renew, as it is so manifestly his interest to do so.

2340. Is not this a regrant, or rather in the nature of a fresh lease?—When the old lease expires, or probably before the expiration, an application is made for a new lease. I apprehend the new lease may be granted on the surrender of the old, before the complete expiration of the term, and that would keep it alive, but within a very short time of the expiration.

2341. In that way you would have something to surrender as a consideration for the new lease?—Yes; but I am not quite certain of the practice in that respect.

2342. The sum paid for the fine is not a fixed sum, is it; but it is a half year's rent, whatever it may be?—Yes; half a year's rent on the improved value of the property. I wish also to make a statement in corroboration of the original copyhold or customary tenure of the present leasehold property in the county of Durham held of the dean and chapter, as established by the report or certificate of the commissioners in the time of the Commonwealth, and the order of the House of Commons of the 17th of October 1649, with regard to the several manors of the dean and chapter therein mentioned. The statement which I now wish to make is, that at the present day there are no copyhold tenants of all the dean and chapter's extensive manors within the county; and that, as copyholders of those manors must have existed formerly, it can only be concluded that they accepted the leasehold tenure with a perpetual right of renewal prescribed by the award or order in council of the 19th of Elizabeth 1577 as a legal award to settle their disputes, and the benefit of which their descendants now claim.

2343. In the document to which you have referred there is this statement: "It fully "appears unto this committee that the said late dean and chapter lands in the time of the "priory and convent of Durham were held by the tenants as estates of inheritance according "to the custom of and in the nature of copyhold lands, and so continued for some time "after the dissolution of the said priory." From that statement does it not appear that the copyholders were not existing at that time, but that they had previously existed?—Yes, that is so; and there are none at the present day.

2344. Then you did not quote this document to show that copyholders were found then, and that no copyholders were found now?—No; I refer to that document to show that copyholders formerly existed; and the fact I now wish to establish is, that there are no copyholders existing at the present day.

2345. There were no copyholders existing at that time, were there?—It does not exactly say that there were no copyholders then, but it is established that there had been copyholders previously; and I wish to prove that in all the extensive manors of the dean and chapter in the county of Durham there are no copyholders existing at the present day, as in the case of the bishop's manors, and other manors in the county; and that as copyholders must formerly have existed they can only have been converted into the present leaseholders by the arrangement of 1577.

2346. What do you mean by saying that copyholders must have existed before?—They were incident to all manors of any extent and consequence, and these are large manors in the county of Durham.

2347. Does a manor cease to be a manor if there are no members for a court?—Yes; but there must have originally been copyholders. The records to which I have referred positively state that up to the time of the dissolution of the monastery manor courts were holden for all or most of the said manors, at which the several tenants came and took their admissions, &c., as in copyhold and customary estates is usual.

2348. Are not the manor courts held now?—No; the manor courts are not held now, for want of the copyholders.

2349. Does the manor then seem to have disappeared?—Yes, in consequence of the disappearance of the copyholders, and it becomes only a reputed manor.

2350. Does it not appear all to have become demesne land now, just the same as if you could suppose the bishop or lord of the manor had purchased it?—Yes, that is so; it has become of the nature of demesne lands, in my opinion, in accordance with the order of council of the 19th of Elizabeth, 1577, which prescribes the perpetuity of the leasehold tenure, in lieu of the disputed tenures previously existing. I beg also to observe, that in confirmation of the injurious effect of any change by which the present marketable value is prejudiced or the annual income reduced, I may refer to a case within my own knowledge, where the lessee holds property producing an income of upwards of 1,500*l.* a year, but charged to an extent of upwards of 20,000*l.* At present, by the good management of his agent, he can pay the interest upon the charges, provide for the regular septennial renewals as at present payable, and derive an income for his family of 400*l.* or 500*l.* a year; but should any change be adopted by which his payment to the lessors is materially increased without a compensating increase to his income from the property, he might be left destitute; and this is only one of many similar cases.

Rev. O. Sergeant.

18th May 1849.

The Reverend Oswald Sergeant, Canon of Manchester, examined.

2351. Are you acquainted with the management of the property of the chapter of Manchester?—Yes, I am; as bursar.

2352. Have you received a list of inquiries emanating from this Commission?—We have.

2353. Are they in the course of being filled up?—They are not, at present, for one or two reasons, which I can explain.

2354. Explain the reasons?—The principal difficulty is with regard to the ninety-nine years leases; it will be impossible to ascertain the value of that property without a valuation.

2355. Will you state generally the nature of the property belonging to the chapter of Manchester?—It consists of lands and tithes principally.

2356. Is it land within the country, or in the town district, or both?—Both; but all within the parish of Manchester.

2357. How is that property held; upon lives or upon terms of years?—Not any upon lives; it is all upon terms of years.

2358. What are the terms of years?—Twenty-one years, ninety-nine years, and forty years.

2359. Are the ninety-nine years terms under your old powers or under the new powers?—They are under a local Act of Parliament which was passed in 1764.

2360. With regard to these terms, is there a power of renewal from time to time?—Yes, and at any time. Our powers in that respect are not affected by the 5 & 6 Victoria, which contains provisions very similar to those on which we act.

2361. Have you made any change of late in the manner of managing the property?—No, not that I am aware of.

2362. Will you state shortly what are the principles upon which you deal with the three respective classes of leaseholds?—With regard to the twenty-one years leases, they are renewable every seven years; and the principle is, on each renewal, to take a fine of one and three quarters annual value, and six and one quarter per cent. on the fine as the reserved rent, so that the reserved rent increases with the fine; that is, when we increase the fine we increase the reserved rent.

2363. Is that an old custom or a new one?—I believe it is an old custom.

2364. Are you aware of any change having taken place in that respect?—No; not as to the principle of increasing the reserved rent whenever an increase is made in the amount of fine.

2365. Will you state what are the principles on which you deal with leases for forty years?—The power of granting leases for forty years is under a local Act also; those leases are renewable at the end of twenty-one years, upon a fixed fine of five times the amount of the reserved rent which is fixed in the first instance.

2366. That is in fact a fixed fine, is it not?—Yes, it is a fixed fine. This system only applies to a very few leases; in fact only to six houses. The whole of the property thus let is not worth more than 5,000*l.* in fee.

2367. Are you aware whether any sum was originally reserved as a consideration on the establishment of that custom?—I should say that no money was reserved.

2368. Is that confined to house property?—Yes; house property entirely.

2369. Were not the houses built by the lessees?—Yes; and the rent received only represents the ground rent, in fact.

2370. Was not the consideration, that they built the houses?—Yes, precisely so.

2371. Is not in fact that property virtually enfranchised?—Yes, certainly; but I apprehend if the lease is not renewed at the end of twenty-one years that we should have a power of withholding the renewal.

2372. But if the parties chose to renew them, would you have any power to refuse?—Certainly not.

2373. With regard to the ninety-nine years lease, what is your system?—There we take of course the best rent that we can get.

2374. Do you renew?—We can renew, and do renew at any time, only on an increase of the rent. We have no power to take a fine.

2375. Do you renew whenever a proposal is made to you to renew?—Not unless our terms are agreed to. We get the property valued when we have any application for renewal.

2376. Is it frequently renewed?—Yes; there are applications for renewal pretty frequently; at the expiration, probably, of thirty or forty years of the original term.

2377. At the end of thirty or forty years, supposing a person is contemplating any considerable improvements, of laying out a large sum, would he then desire to get a renewal, so as to have a longer term before him?—Yes; I have had such cases lately.

2378. Do

2378. Do you in that case consider what reasonable increase of rent would induce you to renew?—As I before stated, we get a valuation from some competent person.

2379. Do you get a valuation of the property in the state it exists, or as it is intended to be?—As the property is now, with the improvements upon it.

2380. Do you mean with the improvements upon it alone?—With the improvements at the time of renewal.

2381. Supposing a party were desirous of investing money for the purpose of improvement, does he come to you previous to investing that money, to get a prolongation of his term?—Yes.

2382. Do you take a valuation of the property as it stands, or do you take into consideration those improvements which are about to be put into it?—We usually take the value of the property as it stands, without reference to prospective improvements; but we generally bind the party applying for a renewal to lay out a certain sum on the property.

2383. But do you make no charge for the improvements which he is about to make?—Certainly not. I had an instance only the other day. The rent was 3*l.* 10*s.* a year; forty-seven years of the lease were expired out of the ninety-nine years. I got instead of 3*l.* 10*s.* 30*l.* 7*s.* 6*d.* a year, which was about 10*l.* a year more than the value of our actual interest. The party was anxious about the renewal, and of course had to come into our terms to some extent.

2384. Did you not then in that case rather take into consideration the improvements about to be made?—No.

[On looking again at the valuation, and receiving an explanation from the valuer, I find that in estimating our claim at 30*l.* 7*s.* 6*d.* he had in some respect taken into consideration the improvements which had been effected after negotiations for renewal had been set on foot.]

2385. Is there much property connected with the chapter which is susceptible of any kind of improvement?—Nearly the whole of the property. Nothing could be worse than to sell property of that kind. We have about 771 statute or 476 Lancashire acres of land on twenty-one years leases, which may in the course of a few years be converted into land for building upon. The present rent would then be increased tenfold. You could not get anything like real value for the property in selling now.

2386. By what process should you convert those twenty-one years leases into building leases?—It depends upon circumstances. In one or two cases I have taken land, instead of a fine, on the renewal of a lease for twenty-one years.

2387. Do you mean that the applicant has given land instead of a fine?—Yes.

2388. Have you the power of accepting land instead of a fine?—Yes; that is, we accept a surrender of so much of the lease, and we get the land thereby quite free from any claim on the part of the lessee for twenty-one years, and then grant a lease of it for ninety-nine years to any person who is prepared to accede to our terms.

2389. Is this the course; that you give a longer lease in exchange for having a portion of the land under lease given up to you*?—Yes; but that only applies to one or two cases.

2390. Is that the sort of process by which you would contemplate converting your twenty-one years leases as occasion requires?—I think such a course in many cases desirable; but I have only adopted it in one or two. In another case I am running out a lease for twenty-one years. The lessee would not come into our terms. He put upon the ground some very objectionable property. I found we could not legally compel him to remove this property, as we had accepted rent since the objectionable property had been put on the ground; and the only plan was, to run the lease out.

2391. And do you feel yourself quite competent to do that?—Yes, certainly; and that is a property which will be very valuable indeed for building upon. The lease has only eight years to run.

2392. Would the other process be, that parties would come wishing to surrender the term they have, and to make a bargain for a new term, thus encouraging them to lay out money?—Yes. Parties wishing to have their leases for twenty-one years converted into ninety-nine years leases, or to have a ninety-nine years lease for a portion of the land in lease to them for twenty-one years, would have such leases granted on the surrender of their existing term, and on the reserve of the best rent that could be reasonably had, their interest in their existing lease being taken into consideration.

2393. Do you mean, when a person having a lease for twenty-one years, renewable every seven, has wished to convert that into a ninety-nine years lease, that you have taken into account their interest in the twenty-one years lease?—Yes.

2394. And have they had a ninety-nine years lease granted under the terms of the Act of Parliament?—Yes.

2395. In all the three classes in which you exercise powers of leasing, have you had those powers given you by special Act of Parliament?—In all, excepting the case of a twenty-one years lease.

* I understood this question thus:—"Do you renew a twenty-one years lease in exchange," &c.? Otherwise my answer is not true, nor would the reply to the following question be correct. O. S.

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2396. Is not a twenty-one years lease an old lease?—Yes. We had the power of leasing for twenty-one years under the charter; but there is some general Act of Parliament, I believe, which applies to our present system.

2397. When you speak of a charter, what charter do you mean? Do you mean the statute?—I mean the charter of Charles First.

2398. Does not the Act of Parliament leave you quite at liberty to make your own terms in any particular case?—Yes.

2399. Does it not dictate the terms of renewal?—The only restriction as to renewal is, that we can take no fine. We act now in this respect on the principle on which the chapter has always acted.

2400. Are you acquainted with your own Act of Parliament?—Yes.

2401. Do you know whether in each particular case you are acting discretionally, or are compelled to follow certain principles?—I believe we follow the principles of the Act of Parliament.

2402. Have you the Act of Parliament with you?—No, I have not.

2403. In each particular dealing, as to whether you shall ask 100*l.* or 1,000*l.*, are you at liberty in each case to act according to your own sense of the value?—I believe so.

2404. Are you compelled to take any particular proportion or any number of years rent?—Certainly not.

2405. Have you not stated that the fine is one year and three quarters upon a twenty-one years lease?—Yes; but that is with regard to one part; namely, the agricultural property. With regard to the town property, it is one year and a half.

2406. In what way is the tithe property which you have let?—The tithe is commuted, and we receive the full value as fixed by the Commissioners.

2407. Are you in possession of it yourself?—Yes.

2408. Are the tithes not under lease at all?—We are in possession.

2409. Has that been for a long period, or only recently?—Always.

2410. Under the old system?—Yes. Since the grant of the present charter I am not aware that the tithes have ever been leased on the system of a reserved rent and fine; and my answers to this and the three preceding questions have reference to this mode of leasing.

2411. Have you never parted with the tithes?—They have been leased for a few years, but not in my time; not for the last twenty years as a whole. They were leased at a certain fixed rent, without fine.

2412. Are they all in hand now?—Yes, with the exception of a few leases of tithes accruing from particular properties granted to the owners; but all these leases expire next year; and these leases are at a fixed rent, without fine.

2413. Can you state the amount of property in any shape there is belonging to the chapter of Manchester respectively under the different classes of tenure?—Under twenty-one years leases there are about 476 Lancashire acres, or rather more than 771 statute, besides houses.

2414. Is all that agricultural land?—It is a sort of mixed land; it is what will ultimately be built upon, in all probability.

2415. It is all land not yet built upon in streets?—Yes; except with regard to a small portion recently built upon in that way, and some houses in the town of Manchester.

2416. Have any parties laid out money in building houses upon the tenure of twenty-one years leases?—Yes. I have a case before me, where the rent is only 6*l.* 17*s.* 6*d.*, and where the lessee laid out more than 1,000*l.* in building within the last few years.

2417. What was the tenure?—Only a twenty-one years lease.

2418. Was it full?—It was not full then. The lease had not more than fourteen or fifteen years to run.

2419. Did he rely upon the renewal?—I dare say he did.

2420. Would he upon the renewal pay only the former fine, or would the improvements which he had put upon the property be valued?—They would be valued to a certain extent but not to the full extent, on the first renewal.

2421. Is there any understanding generally prevalent upon that point, as to how the improvements should be valued in the case of renewal?—No; I do not think I have any instructions of that sort. My practice has always been to take each case into consideration on its own merits.

2422. Without acting upon any general principle?—Yes.

2423. Would you say that the general principle was, not to take the full value of improvements into consideration?—Certainly not, on the first renewal; on the second renewal you would get nearly the full.

2424. Have you any principle not to consider the improvements on the first renewal?—Not that I am aware of.

2425. Have you run out many leases?—No; there are one or two being run out.

2426. Have you found any objection raised in point of principle to that, as if you had done a wrong?—I do not recollect that any lease has been run out by the chapter in my time.

2427. Did

2427. Did you not say that two or three such cases had occurred?—I meant that there were two or three which have been run out by parties either neglecting to pay the fine required, or not coming into our terms generally; and there is a case that I have mentioned in which we are now running out a lease.

2428. That case is in consequence of what you would call a misconduct on the part of the lessee, is it not?—Yes; putting property on the ground which diminishes the value.

2429. Do you mean diminishing the value of the particular property?—Yes; and also diminishing the value of property in the neighbourhood.

2430. Have you had any principle set up in Manchester as against the chapter's power or right to run out leases?—None at all.

2431. Do you mean that it has not been questioned?—I never heard it questioned at all.

2432. Supposing, in the case you have put, of a person having laid out 1,000*l.* upon lease in which the reserved rent was 6*l.* 17*s.* 6*d.*, do you think there would be any remonstrance against the running that lease out?—It is very probable there would be some remonstrance in such a case as that, and I do not think it is probable that the chapter would run a lease out of that kind.

2433. Would the chapter feel itself warranted, do you think, in running out such a lease?—No; not a lease of that sort, certainly not, under ordinary circumstances.

2434. What do you imagine is about the proportion of the rack rent which the chapter is able to realize in cases of twenty-one years leases?—Take a case in which the annual value is 100*l.*; then, on the principle laid down by the chapter, the fine paid for renewal would be 175*l.*, and the reserved rent 10*l.* 18*s.* 9*d.*; the sum received annually by the chapter would therefore be 10*l.* 18*s.* 9*d.* + the annuity for seven years, which could be purchased for 175*l.*; this, at five per cent., is 30*l.* 5*s.* nearly; the chapter therefore receives 10*l.* 18*s.* 9*d.* + 30*l.* 5*s.* annually, or 41*l.* 3*s.* 9*d.*; the lessee receives 100*l.* − 41*l.* 3*s.* 9*d.*, or 58*l.* 16*s.* 3*d.* I have not, however, in this calculation, taken into consideration the tithes accruing from the estate, which the lessee pays and the chapter receives, as I have doubt on the subject; nor have I considered the expense of certain repairs which the lessee pays out of his proportion of rent. I may also observe, that the calculation is based on the supposition that the fine is paid for the seven first years after the renewal; whereas it is in reality paid for seven years after the expiration of fourteen. By reference to a particular case I can also give you some idea of the value of the lessee's interest in a lease of this kind, with reference to the fee. I happen to know the sum for which such interest was recently sold.

2435. Was it sold by the lessee?—Yes.

2436. What was it sold for?—It was sold for 1,400*l.*

2437. How many years value do you suppose that was taken at?—It was, I think, matter of bargain.

2438. How many years were there in that lease?—Fourteen years and a half. It was renewable the half year after it was sold.

2439. Had the purchaser to pay the fine for renewal in that case?—Yes; he paid the fine, and, of course, the expense of a conveyance.

2440. Must not that sum which was so paid be added to the purchase money?—Yes. I had a rough estimate from our agent as to the value of that property, and he thought it was worth about 4,000*l.*

2441. What was the amount it sold for altogether?—£1,400, 250*l.* the fine, and the expenses of the conveyance; altogether about 1,700*l.*

2442. Do you mean that the fee simple of that would have been worth 4,000*l.*?—Yes; 4,000*l.*

2443. In this case, supposing it had been a full lease of twenty-one years, it would have sold for about 1,700*l.*?—Yes.

2444. Would not the person buying the fee simple have increased the value of the property?—He might or he might not.

2445. Would he have kept cottages upon it?—I cannot say that; it is only farming property.

2446. Do you suppose that your surveyor took into his calculation, in looking at the value of the property, what might be put on the land as well as what was actually found there at that time?—I do not think he did; he valued it as property about to be sold.

2447. Was it in a situation where the class of building might be improved?—It was looked at more as for agricultural land than anything else, at present.

2448. Do you think that that difference which you have stated would be the usual difference between the fee simple and the leaseholds?—I think that it would sell, in ordinary cases, for rather more than it actually did sell for; in some respects the sale could not be avoided.*

* I am confirmed in this reply by reference to our agent, who reminds me that the sale took place during a time of great depression. Had it occurred in better times the property might probably have realized 1,500*l.*, or from that to 1,600*l.*, instead of 1,400*l.*

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2449. Do you think that in property in general that would be about the difference between the fee and the leaseholds?—I cannot state that positively. I do not know all the particulars of any other case. I only happen to know this case. It was a sale, which, as I before stated, was in some respects compulsory. Money had been advanced on the property, and the executors deemed it desirable to sell.

2450. Was it a forced sale?—Yes, in some respects it was, although it might have been postponed perhaps for a time.

2451. Do you think that they could have held it long without a sale?—I think not; but I do not think, if there had not been those circumstances attending the case, that the property would have brought much more, from the general circumstances of one or two sales which I have known before.

2452. Is this land which you are speaking of in the course of conversion into building land?—Yes, as to a part of it. The estimate of its value to which I have referred was at the rate of twenty-six years purchase.

2453. Was it valued upon 150*l.*?—It was twenty-six years purchase on 160*l.*

2454. Is this property houses or land?—It is land, with a farmhouse upon it.

2455. What quantity of land is there?—Thirty-two Lancashire acres. The proportion of a Lancashire acre to a statute acre is as the square of 7 to the square of $5\frac{1}{2}$, or as 49 : $30\frac{1}{4}$. There is one point which I have omitted to mention. We have some coals. The coals are let upon a twenty-one years lease, not renewable every seven years, the lease terminating at the end of the twenty-one years; an absolute lease of twenty-one years at a fixed rent, or a quarterage, as it is called, that quarterage being a sixth.

2456. Is that a kind of royalty?— It is regulated by the quantity of coal produced by the pit. If we choose to look at the books of the lessees we can, and I have done so once, to ascertain whether it was desirable for us to take the quarterage instead of the rent.

2457. Do you say, "We will have 500*l.* a year," for instance, or a quarterage?—Yes.

2458. And may you go and take your choice?—Yes.

2459. Do you take the value of that quantity in the market at the time? —Yes, if we took the quarterage.

2460. Do you take the actual coals, or the value in the market of the past year of such a quantity?—We should take the value as they were sold at the pit's mouth.

2461. Do you not take the value as they had actually been sold?—Yes; as they had been sold during the period.

2462. Is not the rent calculated upon the probable average of the quarterage?—Yes. The coals are not of a valuable kind; indeed they are very inferior coals.

2463. Are they not in hand subject only to a terminable lease for twenty-one years?—Yes.

2464. Is it not a kind of rack rent?—Yes.

2465. At the end of the present lease you make a new bargain?—Yes.

2466. Have you opened any new coal pits?—The whole of the coals under the estate are leased to these parties. They get what quantities they choose, subject only to the conditions of the lease.

2467. Do you know whether parties have erected buildings on the twenty-one years leases?—In a few cases, but not in many cases.

2468. Generally speaking, do parties who are about to build come to you for ninety-nine years leases?—Yes, almost always.

2469. Have you a power of letting for ninety-nine years over the whole of your property?—Yes.

2470. Do you calculate then the value before you let a ninety-nine years lease, just as any layman would who was the proprietor of such land?—Certainly.

2471. You having a power over the whole property of granting ninety-nine years leases, how is it that a person going to build upon a twenty-one years lease does not come always to you, and ask for a longer term?—They do so generally; and when such has not been the case I think it has arisen more from ignorance as to the tenure than anything else.

2472. You let for forty years?—No, we cannot, except as to a certain property, which is all let as before described.

2473. Are people willing to build on forty years leases?—The land let upon forty years leases is covered entirely. All the houses were built immediately after the Act was obtained. The powers enabling the chapter to grant leases of this kind are contained in an Act for building a church in Manchester; but there are only six houses so situated.

2474. Have you any other case which you can mention to the Commissioners to exemplify the proportion you get of the rack rent in the shape of fine and reserved rent?—Yes, I have others; but I should state that when I succeeded to the bursarship I found that instead of the fines having been uniformly fixed at one and three quarters annual value, irregular sums had been fixed for fines in some cases; and I am endeavouring to bring all renewals

renewals to the principle agreed upon by the chapter. I have done this in many cases, and I have no doubt that I shall be able to accomplish my object in all cases at no distant period.

2475. Have you had any difficulty in altering the terms there?—There has been a little grumbling, but that is the only difficulty.

2476. Do parties raise the question of principle against you, that you are under engagement to rent at a lower rate?—No; certainly not.

2477. Do they say that they built upon the expectation of renewal on those terms?—Certainly not.

2478. Is it merely the usual difficulty of raising terms which occur in any such case?—Yes.

2479. Have you any other instance of the difference between the market value of a church lease and the fee than the one which you have stated?—I have not any others occurring in my time, but I have no doubt I could get at others.

2480. Will you state any other instance you can to exemplify the proportion you get of the rack rent?—I have a case here, where the rack rent is 98*l.* a year; twenty-seven Lancashire acres; the fine was 200*l.*; the renewal, January 1846; the reserved rent, 12*l.* 6*s.* 5*d.* There is a slight discrepancy between this rent and what it ought to have been; it ought to have been 12*l.* 10*s.* That is the only case I find of an error of that kind.

2481. There you get more than two years?—Yes, more than two years; and the proportion of rent received by the chapter is increased in the same ratio. At five per cent. the annuity which 200*l.* would purchase for seven years is 34*l.* 10*s.*; add this to the reserved rent, 12*l.* 6*s.* 5*d.*, and we have 46*l.* 16*s.* 5*d.* received by the chapter; and the lessee receives as net rental 98*l.* – 46*l.* 16*s.* 5*d.*, or 51*l.* 3*s.* 7*d.*

2482. You have there, however, a larger proportion, have you not?—Yes, a considerably larger portion.

2483. Your septennial fine is one and three quarters now?—The fine is one and three quarters upon the annual value, and the reserved rent is six and a quarter upon the fine; that is, if it were 100*l.* the rent reserved would be 6*l.* 5*s.* We alter the reserved rent as we increase the fine, and as the property increases in value we increase the fine in proportion.

2484. You do not go on increasing the reserved rent, do you, merely upon renewal, unless the rent shows an increased value?—Certainly not. We begin with the annual value of the property. I have another case, where the rack rent was 100*l.* 10*s.*; nineteen acres of land; the last renewal was May 23d, 1846; and the fine was 175*l.*, and, leaving out the 10*s.*, exactly one year and three quarters, and the reserved rent 10*l.* 18*s.* 9*d.*

2485. Was that calculated upon six and a quarter per cent.?—Yes, exactly.

2486. Would that reserved rent go on and be paid until the expiration of the seven years, when you would assess a new fine?—Yes.

2487. And if the fine were increased would the reserved rent then be increased?—Yes, precisely so, and always bearing the same proportion. I have stated that probably this principle has been acted upon from the time of the charter; but I should state that I think the fine was a year and a half at one time; it was increased from a year and a half to a year and three quarters.

2488. Could you put your hand on that record, and send an extract of it?—Yes.

[On examining the register of our chapter proceedings I do not find any record of the increase of the fine from one and a half to one and three quarters value. The only entries I have discovered in reference to this subject are as follow:

18th July 1733. "Each tenant in Newton and Kirkmanshulme to pay for a "renewal of seven years after fourteen a year and a quarter value according "to the extended rent, and without any deduction, and 1*s.* per pound rent." "In Salford each tenant to pay a year and a half value, because there is "no building." "In Deansgate each tenant to pay one year's value and 1*s.* "per pound rent for old buildings, and also for new after twenty-one years, "without any deduction, and to pay ten per cent. if the fine be not paid "within six months after the term is expired."

15th March 1765. "At which time it was agreed to take one year and a "quarter's full value of all the country estates, Salford excepted, for a fine "for a lease of seven years, and one shilling *and three-pence* in the pound for "chief rent. For lands in Salford, one and a half year's full value as a fine, "and 1*s.* 6*d.* in the pound chief rent."

I may add my belief, that I have seen our present practice recorded somewhere, but at present I am unable to find the entry. I believe, however, that one and three quarters value for our country property has been the amount taken as a fine for the last sixty years.]

2489. In this case, where the fine was 200*l.* for 98*l.* rack rent, you took more than two years?—Yes; but there are no doubt peculiar circumstances attending this property.

2490. You did not feel yourself governed by any strict rule, but you made the best bargain you could?—I should state that this was not a case fixed by myself, but by my predecessor.

2491. I suppose

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2491. I suppose the principle is not a very rigid one; do you adjust your bargain, as we may say, to each case?—Yes; but I have tried to bring each case up to the principle mentioned, because I find that is the principle laid down by the chapter.

2492. There is a principle laid down by the chapter, is there?—Yes.

2493. That is not binding on the chapter; is it?—No; they can alter it at any time.

2494. Have you on your chapter record two entries?—Yes, I believe we have.

2495. Have you one which brings the fine to a year and three quarters?—Yes, I think so.

2496. And have you another, some time back, which fixed the fine at a year and a half?—No, I do not find the one when the year and a half was fixed; but I think I can find a record where it was altered from a year and a half to a year and three quarters.*

2497. Do you know how long ago it is since that alteration took place?—No, not exactly.

2498. Shall you be able to find it?—I shall be able to find it.

2499. How long have you been constituted a chapter?—We have been a chapter from the foundation of the college, and we have a chapter seal.

2500. What is the date of your charter?—Charles the First. Our present charter was granted by Charles the First.

2501. What was your title?—The College of Christ in Manchester founded by King Charles, and the chapter consisted of a warden or dean and four fellows.

2502. You were not a cathedral chapter until lately, were you?—No, because we had no cathedral; we have a corporate seal, which is called the common or chapter seal, and we are designated a chapter in the charter. I wish to observe, that with regard to the ninety-nine years leases, I shall not be able, in giving a return, to state the value of the property.

2503. Could you not make an estimate of that value?—I do not think I could.

2504. Can you give the income you get from them?—Yes. We get but a small sum, in many cases, in proportion to the present value; for instance, there are possibly two acres of land, or thereabouts, for which we only receive 30*l.* a year; this land is now covered with houses; the rent we receive merely represents the value of the land at that time; about three farthings a yard.

2505. Would you be able to state what number of years each lease had to run?—I can do that.

2506. What is the land worth now; 3*s.* or 4*s.* a yard?—I do not know exactly; but the property will be ours at the end of the ninety-nine years.

2507. At the end of ninety-nine years you will have a large income from that, will you not?—Yes.

2508. Is there much land on the ninety-nine years leases?—No.

2509. In what way do you renew the ninety-nine years leases?—Upon the actual value at the time of renewal with the improvements upon the land. I have had an application for renewing a ninety-nine years lease lately; but I refused it, because I could not get the value at which the valuer estimated our interest.

2510. Are you under an obligation to renew, in the case of ninety-nine years leases?—Not the slightest.

2511. May you run them out if you please?—Yes.

2512. And may you renew them just when you please, at any time?—Yes.

2513. In regard to forty years leases; you are obliged to renew, are you not?—Yes, but that is only as to a very small amount of property, as I before explained; six houses only. We receive only 32*l.* 9*s.* a year from this property as reserved rent, and five times the reserved rent every twenty-one years, as a fine.

2514. Have you any reason to suppose that the tenants would be anxious to enfranchise their property?—Does the question refer to the twenty-one years leases?

2515. My question is, would those tenants be anxious to enfranchise who have got original leases of ninety-nine years?—I have heard no such anxiety expressed, but I dare say they would be desirous to do it. It would depend very much upon the terms that were offered to them.

2516. Do you believe that they would be disposed to pay something for it?—I think there would be great difficulty, in many cases, in effecting an enfranchisement, as the land is sometimes let over and over again. In the case I referred to, of two acres of land held on a ninety-nine years lease at a rent of 30*l.*, there are many sub-lessees, so that there would be great difficulty in enfranchisement, and it could scarcely be accomplished at all; and there would also be the same difficulty in renewing the leases in such cases as this.

* The witness explained afterwards that this statement was in error.

Mr. JOHN CLAYTON, Town Clerk of Newcastle, examined. *Mr. John Clayton.*

18th May 1849.

2517. ARE you the town clerk of Newcastle-upon-Tyne?—I am.

2518. Have the general views you entertain upon the subject of Church leases already been stated by other parties?—They have.

2519. Upon those points do you wish to offer any evidence?—I can confirm the statements which I am informed have been made by the gentlemen from the county of Durham.

2520. We have had stated to us a tenure that prevails in Newcastle or in the corporation by which leases are allowed to run out and then renewed upon a fine of half a year's rent. Have you any explanation to give upon that subject?—It is a very singular but a very ancient tenure. The practice seems to have been in very early times to grant leases of the lands of the corporation at small ground rents to persons who erected buildings upon them upon the understanding that the leases shall be renewed at the end of the term of twenty-one years, for which they are invariably granted, and on the expiration of that term for a similar term; and so it has gone on without interruption. When the Municipal Reform Bill passed there was a power given to the corporation to renew leases which it had been accustomed to renew previously and the present body, that is, the newly constituted corporation, have pursued the practice, and maintained the faith of the old body.

2521. Is it a half year's rent on the improved value at the time of renewal?—Yes; at the time of the expiration of each term of twenty-one years.

2522. That you consider as a kind of enfranchisement, do you not?—It is not a kind of enfranchisement, because there is a want of certainty attending it.

2523. Do you mean certainty as to amount?—Certainty as to tenure; there being no legal obligation to renew.

2524. How far back can you trace this custom?—Our records will enable us to trace it about 200 years. We suffered, in the border warfare, in our records; they are not so perfect as those of corporations in a more peaceful position.

2525. As far back as you can trace the corporation records, do you find this course to have been adopted?—Yes, as far as we can trace it; and yet, notwithstanding, the holders of these leases in some cases are willing to pay something considerable for certainty. The newly constituted corporation expressed their willingness to the lessees to enfranchise upon certain terms, and we found that the lessees who did not contemplate any expenditure on their property, preferred trusting to their existing tenure; those lessees who contemplated improving their property in value and laying out a new capital, and who did not, perhaps, feel the same confidence in an ancient custom being pursued, inasmuch as a new body was introduced, acceded to the principle of enfranchisement. The difficulty was to determine the terms, and it was finally decided, not by any calculation but by reference to practice. The question was, what is the difference in market value between fee-simple property and this leasehold property held by those leases, so far as we could ascertain; and we found that this leasehold property, with all its advantages, would not sell for so much by one third as the fee simple; and therefore we fixed the terms on which the lessees should be at liberty to enfranchise at one third of the fee simple, selling to the lessees at the same time the small reserved ground rents at twenty-five years purchase.

2526. Was this house property?—This was house property.

2527. Can you state what the figures were; for instance, how many years purchase in each case that was?—That would be no criterion, as house property varies from eight years to twenty years purchase; it depends on the condition of the property. We said, "What is the value of the fee," taking into consideration of course the condition of the property. "What would the fee sell for, and on paying us one third of that value, you shall have the fee;" that is, "We value your leasehold tenure at two thirds of the value of the fee."

2528. If it was nine years value, the corporation took three years value?—Yes.

2529. And was that done at the end of the time when the party came to renew?—It was done at any period. A great many lessees have not availed themselves of the opportunity of renewal, and the present corporate body is proceeding in the course of the former body, and renewing the leases upon the ancient terms.

2530. Did this difference between the value of the fee and this peculiar tenure exist before the reform or change in the corporation, or was it only consequent upon the change in the lessors?—Perhaps the change in the constitution of the corporation did in some degree shake the confidence of some in the ancient custom being maintained, inasmuch as the ancient body was gone, and if that were so the effect would be to increase the difference between the value of the fee and the value of the leasehold tenure.

2531. Did you take the difference as at the time arising from all the circumstances?—Yes; arising from all the circumstances.

2532. You did not go back to the difference of value that was found to exist previous to those circumstances arising which had affected in a peculiar manner the public estimation of the property, did you?—No; it would have been difficult to define the effect produced

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produced by these peculiar circumstances. The question was, what was the difference at that period of time, having reference to recent sales of property of that tenure?

2533. Was it the parties contemplating any considerable improvement who enfranchised?—Yes, in some cases; in other cases, parties enfranchised without that inducement.

2534. Those are the parties who did not decline the terms?—Yes; the terms were in fact very disadvantageous to the lessees, if the tenure could be considered certain.

2535. Is there large property situated under these circumstances?—A very considerable property.

2536. How are the proceeds disposed of?—They come to the municipal fund, but are treated as capital.

2537. Does the municipal fund provide for various local purposes?—Yes; various local purposes.

2538. The corporation are trustees of this property, are they not?—Yes; trustees for the inhabitants of the borough.

2539. The fine you take is half a year's improved value at the end of each term of twenty-one years?—Yes.

2540. Did you make any observation of what difference that in itself would create?—No.

2541. Did you take into consideration the amount of tenure the party had at the time?—No, we did not; the fine was so trifling, that we did not go into that arithmetical distinction.

2542. Can you state the proportions of those who did enfranchise, or whether they were numerous?—I cannot state precisely the numbers. I should think perhaps, speaking off-hand, a fifth might have enfranchised.

2543. Do you mean a fifth in number or in value?—In value.

2544. And in number what do you suppose?—I cannot answer with any certainty.

2545. Should you have any objection to give the particulars about the enfranchisement?—None. I can do it by referring to documents.

2546. Will you state the particulars?—On referring to documents it appears that about one fourth in value of the lessees have availed themselves of the opportunity of enfranchisement, and about one tenth in number.

2547. Do you make the same offer still?—Yes.

2548. Is the offer always standing?—Yes; standing at this moment.

2549. Is it under a special power?—The power of renewal is under a special power. The enfranchisement is done with the consent of the Lords of the Treasury, who must be consenting parties.

2550. Do you keep the power of enfranchisement open to any party who chooses to apply?—Yes.

2551. And you do not hesitate to renew?—We do not hesitate to renew, but we grant no new leases in those terms which are obviously disadvantageous to the lessor.

2552. Have you been in the habit of granting new leases on those terms within your memory?—Not within my memory.

2553. Were they originally granted because it was considered at that early time as giving a great stimulus to building?—There must have been some such peculiar circumstances which originated such a practice.

2554. Could it have been in any way connected with electioneering purposes?—No.

2555. Is the property within what might be called the city walls?—It is chiefly in the suburbs without the walls; there is a large suburb without the walls which belongs to the corporation.

2556. Is the property so dealt with chiefly in the suburbs or in the city?—Chiefly in the suburbs.

2557. Were there any peculiar covenants in these leases?—The several tenants covenants for keeping in repair and yielding up in repair.

2558. Do you mean to say there was nothing extraordinary in the covenants so as to diminish the value of the property in that respect?—No; nothing extraordinary.

2559. Was it, do you suppose, land of little value as being in the suburbs?—Yes; upon lands of very little value unless for building purposes. The gentlemen who are interested in Church leases in the county of Durham wished me to state to you the result of my experience of Church leases; viz., leases from the Bishop and the Dean and Chapter of Durham of lands for twenty-one years, which are renewed every seven years on payment of a fine of one and a half year's improved value. In that custom of renewal the greatest confidence has been placed, and, as far as I know, the interest of the lessee in lands so held in good situations has been usually sold at the rate of eighteen years' purchase.

2560. Do you mean country land?—Yes; agricultural land.

2561. That

2561. That has been raised, has it not, within no very great period, from a year or a year and a quarter?—Not within my memory; but I have understood that the fine was advanced from a year and a quarter to a year and a half at no very remote period.

2562. What was the fee-simple value of that same land?—The fee simple of that same land would be at the rate of twenty-seven, or in some cases twenty-eight years purchase.

2563. When you speak of "not within your memory," to what period do you go back?—To the extent of thirty-five years. In regard to the transactions in Church leases as a mark of the confidence in the renewal of those leases, I know a case of land in the vicinity of a town inapplicable to agricultural or horticultural purposes which has been built upon by a sub-lessee, the immediate lessee under the Church having only a twenty-one years lease himself, but covenanting to give to his under-lessee a term of sixty-three years in case he obtains a renewal of his lease, and upon the faith of this covenant very considerable expenditure of money has taken place in buildings.

2564. Can you give any conjecture of what the amount may be within the mark?—Many thousand pounds.

2565. Was there a covenant on the part of the first lessee to renew if he could?—His covenant does not extend so far as that, because that would involve the necessity of paying any sum to renew that might be demanded; the covenant runs "that in case he should renew he would continue the term for sixty-three years;" and the confidence in the immediate lessee obtaining a renewal is so great that the sub-lessee freely expends his capital.

2566. And if he should not renew, would the practice be that the bishop would renew to the sub-lessee?—I do not know a case in practice of that sort. I do not know an instance of the Church breaking faith by disappointing the lessee's expectation of renewal.

2567. Supposing a lessee did not renew?—The lessee would scarcely be so foolish as not to renew.

2568. With regard to that phrase "the Church breaking their faith," in what way is their faith broken in the case of a refusal to renew?—Inasmuch as the public have expended their capital, confiding in the custom of renewal being maintained.

2569. Is not that "faith" on the part of the public?—Yes; the faith on the part of the public in a custom which has so long prevailed.

2570. Would they have had the same confidence in individuals maintaining under like circumstances their faith, or in the Government, or, for example, in the Woods and Forests, and so on?—I would not have placed such confidence in an individual. In a lay corporation I have mentioned that such faith has been reposed.

2571. But in case of property belonging to the Government, controlled by the Woods and Forests or the Duchy of Cornwall, would you have had the same confidence in such a renewal?—I have not had any experience of their practice, and therefore I cannot say what degree of confidence I would place in them.

2572. Supposing under such bodies as the Woods and Forests or the Duchy of Cornwall there has been the custom of renewal in that way, should you consider it a breach of faith if they, coming to a knowledge of the fact that they had made a bad bargain, would not so renew any longer?—If they had pursued that practice for any great length of time, and had allowed large sums to be expended on the faith of its continuance, I should think it was a breach of faith to refuse to renew.

2573. Do you mean if money had been expended on the expectation of its continuance?—Yes; money which would not have been expended without the prospect of renewal.

2574. For instance, suppose the case of a whole street of houses in London built in that way by tenants who had leases either for lives or years, and when they came to renew, the Woods and Forests were to tell them, "We have altered our mind; we have been imprudent; we will not renew your lease;" would you consider that a breach of faith?—Yes, I think I should, if the certain tenure of the tenant without the custom of renewal had not been such as would have induced him to spend his money in building or purchasing the houses.

2575. Would you say that those parties so acting had not kept their faith?—Yes, I should.

2576. Would not that feeling exist rather with respect to the individuals who were alive at the time when the leases were first granted, and would it not seem to be more a breach of faith in those individuals than their successors a hundred years afterwards?—I do not mean by the expression to impute any moral delinquency: the confidence of the lessee is placed not in the individuals but in the body.

2577. The present corporation of Newcastle keep the faith that their predecessors kept in that sense?—Yes.

2578. Considering it would be a breach of faith not to do so in the case of individuals who had been allowed by them to build upon that land?—Yes; in the expectation of renewal of their leases on understood terms.

Mr. John Clough.
Mr. W. L. Newman.

18th May 1849.

Mr. John Clough, of York, and Mr. W. L. Newman, Actuary, of York, called in.

The Chairman stated, that as both Mr. Clough and Mr. Newman would speak as to the same district, the Committee proposed to examine the former; the latter gentleman being at liberty to state anything that occurred to him during the examination.

Mr. Clough examined:

2579. Have you any statement to make upon the subject of Church leases?—I have a memorial to present from the lessees of Yorkshire, addressed to the Right Honourable the Earl of Harrowby and others, Her Majesty's Commissioners appointed to take into consideration the most beneficial mode of managing the estates of the Church:—

The Memorial of certain owners of estates (resident in the county of York and elsewhere) held under leases for lives and years of certain ecclesiastical bodies, showeth,

That your memorialists are in their own rights, and as trustees for other parties beneficially interested therein, possessed of divers estates in the county of York and elsewhere, held by them on leases for lives and years respectively under the archbishop and bishops, and also the deans and chapters and prebendaries, and other ecclesiastical corporations:

That the rights of renewing such leases on the falling in of lives, as well as at certain stated intervals where the leases are granted for years, have been conceded to and enjoyed by your memorialists and their predecessors from time immemorial, on the payment of certain fines agreed upon between the lessors and lessees for the time being:

That Her Majesty having appointed you to be her Commissioners for the purpose of inquiring into the management of ecclesiastical estates, with a view to the improvement thereof, having at the same time a just regard to the interests of the lessees, your memorialists therefore believe this to be the proper time to bring under your notice the present state of their property leased to them as before stated by various ecclesiastical bodies:

That in the opinion of your memorialists their present position with regard to their estates, rights, and privileges is exceedingly unsatisfactory, owing to the proceedings of the Ecclesiastical Commissioners for England in dealing with the estates of the lessors contrary to the established principles heretofore uniformly adopted:

Your memorialists contend that these proceedings have been founded on erroneous and unjust principles, and have tended greatly to injure and depreciate their property, whereby the market value of such estates has been seriously depressed, and sales on fair terms have been prevented:

That in any principle, proceeding, alteration, or amendment which you as Commissioners appointed by Her Majesty may deem it your duty to recommend regarding such estates, in pursuance of the powers and functions with which you are intrusted, your memorialists trust that a just regard will be had to the long-acknowledged beneficial rights and customary privileges attached to such estates, whereby and under which they have been made the subject of family settlements and trusts for securing the fortunes of younger children as well as being made use of for securing principal monies advanced on mortgage, and which rights and privileges have been established for upwards of two centuries, under the firm conviction that they would never be disturbed or interfered with, and which rights have been frequently and fully recognized by Parliament:

Your memorialists finally beg to express their hope and expectation that this question, which to them is of the greatest importance, will now receive at your hands that careful consideration which it deserves, and that in any report which you may make a means will be pointed out for securing to your memorialists some equitable principle of enfranchisement of their estates, or other means of relieving them from the disadvantages to which they are at present exposed by the changes in the system lately contemplated or carried into effect, and for securing to your memorialists the enjoyment of their just and perfect rights; and your memorialists humbly beg to submit for your lordship's consideration a scheme for the ascertaining and settling the several rights and interests of the respective parties in such leasehold estates, which scheme has received the unanimous approbation of your memorialists, and been adopted by them for recommendation.

Proposed plan of enfranchisement:—

The Committee submit that the following basis of enfranchisement is equitable and just, and, although more simple, is essentially the same as that proposed by Lord Monteagle in 1837, and produces the same money results.

That the number of years purchase of the lease, whether for lives or years, be calculated by a four per cent. table:

That the fee simple be calculated at 25 years purchase:

That the lessee be allowed thereout the value of his lease, including the value of his customary expectation of renewal, and that the balance be the value of the reversion:

That the lessee be at liberty to enfranchise at the above value, or be at liberty to convert it into an annual rent-charge, to be calculated at the same rate as the above:

That

That the lessee be at liberty to purchase or redeem the rent-charge at a calculation to be made on the same basis as the above:

That in the valuation of all ecclesiastical lands the Commissioners appoint one valuer, the lessee one valuer, the two valuers to appoint an umpire, and in case of a difference between the valuers the umpire's decision to be final and binding on both parties, such umpire to be appointed before any proceedings are taken.

(Signed) JOHN CLOUGH,
Chairman of a meeting of lessees of ecclesiastical estates in Yorkshire.

2580. In what way do you propose to estimate the value of the expectation of renewal?—According to the number of lives or of years they have to run in reference to age. The respective lives would be valued, we should propose, by an actuary. This gentleman, Mr. Newman, is the only actuary we have in the county.

2581. That would give you the means of ascertaining the interest which the tenant migth be supposed to have in the property. How would you get at the value of the expectation of renewal?—The expectation of renewal has always been considered to be worth from five to ten years purchase.

2582. Will you state a case to which that would apply?—I hardly know that I should be able to state a case. Mr. Newman has been accustomed to do the calculating part of the business for us.

2583. (*To Mr. Newman.*) Will you state a case how you would reckon the expectation of renewal?—Take a case without the expectation in the first instance. Supposing an estate for three lives is valued, supposing it to be the three best lives you can put in, if that estate is valued at four per cent. those three best lives would be twenty-two and a quarter years purchase out of twenty-five; the remainder would be the difference, and would be the value of the reversion. That is not making any allowance whatever for the customary right. With regard to the customary right, it is an exceedingly difficult thing to get at what may be considered the real value; it depends so much upon what estates have been accustomed to sell for in the county. I have known cases where they have sold for four or five years purchase above the actual calculation of the tabular value which would be made by an actuary, and in such a case as that, that excess would be clearly the estimation of the customary right.

2584. Would not that make the value of his interest something about the fee simple?—Yes, if it were so.

2585. If you take twenty-two years as the rate, without any chance of renewal, and add five years for the renewal, it would make twenty-seven, and the fee is worth only twenty-five; would not that be so?—Undoubtedly, if that were the case contemplated here by the Yorkshire lessees; but that is not so; the lessees here ask simply to take the valuation of their lease at four per cent. Take the value of the fee simple at four per cent., and they consider if you do that you include all the value of the customary right.

2586. How?—They consider, instead of charging the fee at three per cent., and putting the lease at five, you make a concession by valuing both at four per cent., which is equivalent to their customary right.

2587. Should not the customary right be added?—It is to be included; that is, by being included it is to be considered with a view to enfranchisement, for instance; that if instead of valuing the fee simple of the estate at thirty years purchase, or thirty-three years purchase, as has been done by the Ecclesiastical Commissioners, you make this concession to the lessee, that it should be done at four per cent.; that itself is a sufficient compensation for the customary right.

2588. Do you consider you have given him the value of the customary expectation when you have fixed it at twenty-five years purchase?—Yes, for the fee, instead of thirty.

Mr. Clough. That was meant to be embodied in the suggestions at the end of the memorial, that it should be including the value of the customary expectation.

2589. (*To Mr. Newman.*) Is what you mean to say this: that they should be allowed thereout the tabular value of the lease, which shall be held to include the customary expectation?—Yes, provided the concession is made of four per cent.

2590. Do you mean practically if the land is estimated at twenty-five years purchase, then the customary right has already been conceded?—Yes, for the purpose of enfranchisement.

2591. Can you compare that with the case of the existing practice, and state the result of considering it in that point of view; take the case of 100*l.* a year?—If this case were brought to me for valuation by the Archbishop of York, and I calculate the fines for his life-hold estates, I should make the calculation at five per cent. If they were three young lives, the existing lives would be worth eighteen years and a half. I am speaking of the full value of the lease after a young life had been put in. It must be understood that that would be the tabular value, but the tabular value only. If we applied to the Ecclesiastical Commissioners to buy the reversion of that estate, they would say to us, without any regard to the value or the consideration for renewal, "We value your estate at $3\frac{1}{2}$ per cent. "interest on thirty years purchase, and you must pay us the value of nearly twelve years "purchase for the redemption," and that would exclude us from any value for our customary right. If our customary right was to be paid for on that plan, we should say, "Give "five

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" five or six years in addition to the eighteen years." Those estates, when things were in their regular way, would have sold in the county of York for five or six years more than the tabular value at five per cent.

2592. Compare your proposed plan with the plan under which the Archbishop of York at present acts as to an estate of any given value, and show the result of the existing practice with the Arrchbishop of York as compared with that proposal?—The Archbishop of York never negotiates for the sale of reversions, therefore it is impossible to compare the two.

2593. We want to see the comparison of the mode of dealing in regard to the result to the Church?—We may say that the result to the Church is this; at the present moment the Church concedes by granting all the renewals on leasehold estates at five per cent. a something to the lessee. I conceive if our plan was adopted the concession would be less; instead of charging our estates, as we now buy them, at five per cent. by renewals to the Church, you would then charge our estates at four per cent., that is a difference of one per cent.; but at the same time you make up for that on the other hand. You make up to us, on the other hand, for charging us four per cent. instead of five, by giving us the power to enfranchise our estates at twenty-five years purchase; by giving a certain fixity to the tenure we know what we have to deal with.

2594. Supposing there was an unwillingness absolutely to emancipate the property, and part with the freehold on behalf of the Church, what equivalent could you suggest which would correspond with your proposal, in the way of either a different fine, or an increased reserved rent for the security of renewal?—I apprehend that the right way would be to turn the difference in value into a certain rent-charge. Supposing at the present moment a reversion of an estate charged as these parties, the Ecclesiastical Commissioners, tried to do it, which would be thirty years purchase, was found too high, we should object to the amount to be charged upon the estate. We should have no objection to allow the difference if it were done at four per cent. Supposing the value of the lives at four per cent. to be eighteen years, that is, they were of the ages giving a value of eighteen years at four per cent., it would be seven years purchase; then seven years purchase on 100*l.* would be 700*l.*, and that the lessee would make no objection to have charged as a rent-charge at an interest of four per cent. That would meet the real justice of the case. Four times seven are twenty-eight; 28*l.* a year on 100*l.* a year; they would have no objection to have charged in that way; that is what the lessees of Yorkshire feel would place them in a fixed position.

2595. What is the amount the Church at present receives in such a case?—The estates of the archbishop vary. In putting in a life, whatever the fine may be, I generally select a life of about seven years old; we take from five to ten years of age as being the best; the fine for putting in one young life will be little more than one year's purchase generally, if the two remaining lives are young; but it depends on the ages of the remaining lives. The fine for two lives would be more. A case occurred the other day, where seven and a half years purchase was the fine upon the estate.

2596. Have you considered what is the annual sum upon 100*l.* which is paid to the archbishop year by year for putting in lives?—I should say that the Archbishop of York's fines would nearly average 25*l.* upon every hundred pounds; nearly a fourth part. They have been rather high during the latter part of the late archbishop's time.

2597. Do I understand that your suggestion would make that 25*l.* about 28*l.*—It might or it might not. That was a case which I chose for exemplification. That might be the case on the average of the existing leases; but it would not be so if the existing lives were all young. Considering the number of years purchase for three young lives to be twenty-two years at four per cent., that would leave only three years purchase; between twenty-two and twenty-five; that would be only 300*l.*; and that sum consequently would only bring 12*l.* a year. So that the result must depend upon the ages of the lives in the existing leases.

2598. Do you mean that the archbishop would only get 12*l.* there instead of 25*l.*?—That does not follow. £25 is about the average; the next fine in that lease might bring it up to above the 28*l.*

2599. It is very variable; for fifty years it may happen that he gets nothing at all; but have you gone over any large number of leasehold estates, and taken a number of fines, so as to form an average of what he gets per cent. upon life leases?—Out of every 100*l.* a year rent he would get about 25*l.* I have no hesitation in saying the average of York for many years would yield about 24*l.*

2600. Do you mean upon the rack-rent of the whole Church estates for lives?—Yes; that is, the archbishop's estates.

2601. Are the Archbishop of York's estates all life estates?—*Mr. Clough.* No, they are not; there are many leases for twenty-one years, renewable every seven.

2602. (*To Mr. Newman.*) What are the archbishop's fines; what are the terms on which the archbishop's fines are given?—The fines are given at five per cent. on the Northampton table; that has been long practised.

2603. How many years purchase is that?—You must give me a case before I can state that.

2604. You

2604. You dropped an expression just now, that the income lately had been very high?—Since the present system of valuing the fines was introduced, in lieu of the old method, but not in the time of the present archbishop.

2605. As you stated that the income had been higher lately, do you mean that it has varied?—No doubt it has materially.

2606. Are some of these estates on twenty-one years leases renewable every seven years?—Yes.

2607. In the case of a fine, where you renew for twenty-one years at the end of seven years, upon what table do you then calculate the fine?—At the present moment the calculations for twenty-one years certain are made by the seven per cent. table. When I first went to York they were made by the nine per cent. table. The late archbishop consulted Mr. Jonathan Gray and myself upon the subject, and we advised him that nine per cent. was too great a sacrifice for the Church to make, and at that time I drew up a seven per cent. table for him; but that was not, during the life of the late archbishop, generally acted upon, the fine having been usually one and a half years purchase. In addition to that, when the late archbishop renewed his lives he sometimes made a deduction from the tabulated fine. Suppose the tabulated fine to have given four or five years purchase of the rent, he deducted from that sometimes five per cent., and he has been known to deduct ten per cent. from the tabulated value.

2608. Allow me to call your attention to this plan. You state as a fact within your experience that the archbishop gets about 24*l.* out of every 100*l.* a year?—Yes, of the annual value; I do not say the present archbishop, as the present archbishop's income from fines has latterly been very low; that is, the income from the estate has been very low.

2609. Have you made any calculation as to the increase which the carrying out of this plan would give to the archbishop, whether, supposing he now makes 24*l.* out of every 100*l.*, he will then make 30*l.* or 40*l.*, or how much?—I have not made the calculation, because I did not consider that that was part of my business to look into the future income of the see.

2610. Without reference to the future income of the see, I want to know what effect it will have on the ecclesiastical income of the diocese of York by substituting this plan for the present plan?—I cannot say. I could very soon come to it, but I have not made the calculation.

2611. Will you consider that question, and answer it?—In compliance with the desire which was expressed to me, I have considered over the questions which have more immediate relation to the effect of the plan proposed upon the annual income of the see of York. I must first observe, that no very accurate conclusion can be come to on this head without a knowledge of the actual annual value of the estates of the see. I gather from the evidence of the late Archbishop of York himself, given before the Commission in 1837, and his returns of his annual income, that the income of the see was about thirty-three per cent. of the annual value at the time he made the return of the three years average income of his see. This appears to me to be a very high proportion, and I suppose it can only attach to that three years; otherwise I cannot explain it. I am informed, however, by those upon whose information I place much reliance, that it does not average so much as that. I have looked through my own calculations for a few years, and I find that on the assumption that one renewal takes place in a lease for three lives every fifteen or sixteen years the average proportion of fines on leases for lives would be about twenty per cent. of the annual value. The usual fine of one and a half years every seven, with an occasional increase thereon, would average about twenty-two per cent. of the annual income. I observe, however, that the thirty-three per cent. before referred to must include the reserved rents; and, making an allowance for these, I come to the conclusion that the proportion derived from fines was about thirty per cent. of the annual value. The mean of these three quantities gives twenty-four years as the proportion which the income derived from fines would bear to the whole annual value of the estates. I have stated this that you may see why I have assumed twenty-four per cent. as the proportion which the average income from fines bears to the annual value of the estates as a whole, and judge it for yourselves. I am somewhat inclined to think that there must have been some mistake in the return made of the total annual value of the estates belonging to the see; and if this were so, and it should turn out to be greater, then the proportion from fines would be less. I will now proceed to the calculation. I assume, for the purpose of illustration that, there are five leases in existence in which the ages are as follow:

		Ages.
No. 1.	Three young lives	10, 10, and 10,
2.	Three lives	20, 30, and 40,
3.	Three lives	30, 40, and 50,
4.	Three lives	40, 50, and 60,
5.	Three lives	50, 60, and 70,

and that each of these estates is worth 100*l.* a year, consequently the whole annual value equal to 500*l.* a year. I further assume that these estates are about to be enfranchised according to the proposed plan, and I proceed to compare the past and the future, and show the

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the probable result. As an assumption, for the purpose of comparison, let us say that the gross income of the Church per annum has averaged twenty-five per cent. on the annual value; then from these five leases the income must have been 125*l.*, or one fourth of 500*l.* a year. The following table shows the value of the lease and the reversion in each case, and also the annual charge if the value thereof be converted into a rent-charge.

		Value of Lease.			Value of Reversion.			Annual Charge at 4 per cent.		
		£	s.	d.	£	s.	d.	£	s.	d.
No. 1.	10, 10, and 10	2,193	16	0	306	4	0	12	5	0
2.	20, 30, and 40	1,971	0	0	529	0	0	21	3	3
3.	30, 40, and 50	1,816	16	0	683	4	0	27	6	7
4.	40, 50, and 60	1,618	2	0	881	18	0	35	5	6
5.	50, 60, and 70	1,368	16	0	1,131	4	0	45	5	0
		8,968	10	0	3,531	10	0	141	5	4

I observe upon this, that if these assumptions be admitted as being true, the Church would exchange an income of a variable nature of 125*l.* per annum for a fixed rent-charge of 141*l.* 5*s.* 4*d.* per annum, which is evidently a considerable benefit. I also observe upon it, that if any other supposition be made which shall show that the income heretofore derived was less than twenty-five per cent., the gain to the Church would be greater, and vice versâ. And I further beg to state, that I have made the calculations of the leasehold values by the Northampton four per cent. tables; but that if the Carlisle four per cent. tables were adopted the result would be more in favour of the lessees.

2612. Have you considered this with reference to the cases of lives only, or lives and terms of years also?—That plan has merely been considered with reference to the question of lives.

2613. Can you state how the plan would operate on the case of a lease for twenty-one years, renewable every seven years?—A lease for twenty-one years renewable every seven years, at seven per cent., or by a seven per cent. table, may be considered to be rather more favourable to a lessee than a lease for lives at five per cent. In the one case the man is every seven years buying his estate at seven per cent., which is a low price to pay; in the other, every sixteen or eighteen years, or thereabouts, (our lives have rather averaged more perhaps than some,) he is buying his estate at five per cent. Therefore, if you change the system into a fixed system which operates alike on both it would be rather more to the disadvantage of the present lessee of twenty-one years; that is if you put them all on one footing; at present they are not both on one footing, the one having rather an advantage in money terms, but I do not think an absolute advantage.

2614. What do you consider the value of the tenant's interest in the case of a twenty-one years lease, supposing it full?—If a tenant came to me, and asked me that value, I should say, "This is worth twelve and a hal fyears purchase." I should value it at five per cent., and not seven. I should be bound to give the man a fair and honest reply. I should therefore say, "You ought not to dispose of this estate without having twelve and a half years purchase, or five per cent."

2615. What should you estimate the interest of the lessor at; that is, how many years purchase the reversion is?—If you allow me to value the reversion of the whole estate at five per cent., it is the difference between twenty years purchase and twelve and a half, which is seven and a half, the remainder; that is, the value of the reversion.

2616. That is seven and a half?—Yes, in that case.

2617. Is this what you assume: If you grant a lease to a tenant on five per cent. table, you are then to assume the fee simple is only worth twenty years purchase?—The effect of granting does itself do that. The law is laid down. The archbishop or his agent writes me word, "Mr. Newman, make a calculation at five per cent." I have nothing to say to it, but I make the calculation.

2618. You compute for the purpose of granting the lease?—Yes.

2619. That is to say, you determine that the person who takes that lease is to make five per cent. of his money?—To be sure.

2620. Do you find involved in that the conclusion, that if the archbishop were parting with it that that was to be treated as worth only twenty years purchase?—It would be very hard to lay that down as absolute law for the Church, I should say at once; but I do say you cannot estimate these things justly without you use one scale.

2621. It is not doing justice, according to your notions of justice, in such a case to grant a lease on such terms as the tenant shall make five per cent., without you are prepared at the same time to sell the fee simple at twenty years purchase?—I do not say that.

2622. Then

2622. Then how do you escape from that conclusion?—I will show you. I say that it is fair and right that the archbishop should take into account what it will be worth his while to grant a lease upon. He does so, and he gives me my instructions. I follow those instructions; but I know very well that by following out those instructions I give a value to the tenant's lease which is not the tabular value; that if that lease is brought into the market it sells for a different sum than the tabular value; and it must be clearly understood that the tabular value is one thing and the market value another.

2623. What do you consider the tabular value?—Twelve and a half years for twenty-one years.

2624. Would it not sell for more than that?—It would sell for more than that.

2625. How much more would it sell for?—Seventeen or eighteen years. It has reached seventeen or seventeen and a half.

2626. Supposing, practically, you were to grant a lease at five per cent., and you were next day going to sell the fee; do you think that that allowance of five per cent. to the tenant would have any effect at all on the number of years purchase the fee would fetch?—It has some effect, without a doubt, because you have burdened the estate; you have parted with the first portion of the estate. What amount that effect is is a very nice question to answer. I conceive, if you want to get at the just case, you must bear in mind that these parties have all held these leases on customary tenure at these rates of renewal, and that if in proper times, without fear of the action of commissions, or other things of that sort, they brought those estates into the market, they would sell at four, five, six, or seven years purchase beyond the tabular value.

2627. Do I understand that you must put it in this way: if you were to sell an estate that was worth thirty years in fee simple, with merely a charge of that incumbrance upon it, and that it was not to come into possession till twenty-one years after, that you would then consider you had a right to subtract from the thirty years purchase value the twelve and a half years purchase; but if you sold it with an incumbrance upon it of a twenty-one years lease, with an expectation that that should be renewed upon certain expected terms, that then in fact the fee simple is not worth the difference between the twelve and a half years and the thirty years?—Yes, that is exactly so; in fact you must deduct a larger sum.

2628. Is not that because you are in fact selling an estate encumbered, not merely with a lease for a given term of years, but an expectation of something else besides?—Yes, decidedly.

2629. And therefore that you must not take the simple difference between the tabular value, the thirty years value, and the real value?—No; as you would not do justice in that way.

2630. Suppose there were two estates of exactly the same value in the market, and the reversionary interest with that of the tenants is equal, we will say, to twenty years purchase; is there not ten years difference between an estate under those circumstances and the fee simple?—The fact is this; the two parts ought to make up the value of the whole; and if the estate were brought into the market fairly, without the fear of any action on the part of others interfering, the probability is that the sale value of the estate would make up the difference.

2631. Taking it with that uncertainty as to enfranchisement?—I conceive the two parts ought to make up the value of the whole, and therefore you must adopt such a value for the fee simple as shall compensate at once for the full value the tenant has, and the rights of the Church; and therefore I consider if you take a four per cent. table you do that; if you adopt thirty years purchase as the value of the fee simple, you do not do that.

2632. But if the fee simple of the estate is worth thirty years purchase, is not that matter of fact?—It is a matter of fact only when you can get hold of the estate in hand, that is, in possession.

2633. I am speaking now upon the supposition that there is an uncertainty in the tenant's interest; and, assuming there is an uncertainty in the tenant's interest, what difference does that make in the value?—Let me ask you to put the uncertainty again before me?

2634. Taking the law as it stands now, what is the difference in value between the fee simple value and the estate of two values put together, one consisting of the reversionary interest, and the other of a twenty-one years lease, with an uncertainty of renewal, or not with a certainty of renewal?—That I can answer. I think it would be some five or six years purchase.

2635. Do you think some five or six years purchase is afloat or lost?—That is, it sometimes absolutely falls through if you do not ascertain both values.

2636. Supposing the two parties are dealing with each other, combining to create a fee simple *in præsenti*, and that they could sell it to-morrow for thirty years purchase jointly, and that there would be got by that joint action of theirs a certain sum that is now lost, would it not be fair to divide that sum between them, seeing that they must both combine, and there must be a joint action of the two parties to produce it?—There can be no doubt they would each make their own bargain with reference to their respective interests. How they would make that bargain must depend on which has the larger interest.

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2637. Do you mean which has the most anxiety to get at the value?—Yes, to some extent.

2638. You have not quite answered my question. You bring into existence a value which is either dormant or lost, now by enabling these parties to combine and carry to market a fee simple *in præsenti*, instead of this smaller sum, which is made by adding their joint interests. In that case the sum so produced is to be disposed of somehow. There are persons who say it ought all to go to the tenant. There are persons who say it ought all to go to the lessor. Does it, or not, appear to you just and equitable that the tenant and lessor should divide that fund so created between them in some proportions?—Provided you were not taking the calulation at five per cent. upon the one hand, and three per cent. upon the other, I should say yes to that, at once; if, on the other hand, by meeting this very case, you adopt a new principle of four per cent., then nothing falls through.

2639. Without talking about per-centage or tables, there are two parties who have separate interests in an estate, if they join together, and each will do something; then that estate is immediately raised in value five years purchase beyond what it was; does it not appear to you to be equitable that this further fund so created by their joint action should be divided between them, or do you think either of them ought to have it exclusively?—I do not think that either has a right to take it wholly; I am quite decided in my answer to that; but I say in settling that division that you are to take into account the market value of the lessees interest, or adopt some other equitable mode of estimating the respective interests.

2640. Is your principle of division, in proportion to the respective value which each party has in the estate now so is the division of the fee simple?—Yes; provided you do not take them at three and five as the Ecclesiastical Commissioners have done.

2641. Without reference to five or to three, in answer to the question just put, do you not say that they ought to divide it in some proportion, and that neither party ought to have the whole?—Yes; I would say that they ought to divide it in some proportion.

2642. Is it your proposal that they should take it in the proportions which they respectively have at the present moment in the estate?—Yes; provided the one was not done at five per cent. and the other at three.

2643. Take it that the one interest is worth twenty years purchase, and the other ten, would you divide the new value in the proportion that twenty has to ten?—Yes, decidedly.

2644. Is that your proposal?—That is my opinion.

2645. Is it your opinion that the new value discovered between the two parties should be divided between them in the ratio of their existing interest?—Yes, decidedly; but I put this condition in, that it should have been valued by the four per cent. tables, because otherwise the lessee would not have the correct proportions.

2646. Would it have signified whether five, six, or seven per cent. were taken, if the different interest were valued both by the same table?—Supposing it is understood that both are valued by the same table, then my answer stands, value them both by the same table, then, whatever surplus value arises by this mode of dealing with the property, it ought to be divided according to the respective interests of the parties, but you must use one measure of value.

2647. Take the case in this way: Suppose the lessor were to go into the market with his reversion, it would be worth so many years purchase; the lessee to go about the market with his lease, that is worth so many years purchase; would you take the ratio of the interest of those respective parties as the ratio at which your new value is to be divided?—Certainly. This would be to value *both* by the market value.

2648. And that is, whether you take either the market value or as valued on the tables?—Yes; but you must not use two measures; that is what I object to. The respective interests ought to be valued, either *both* by one table or *both* by the market value.

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2649. Have you any further suggestion that you wish to make?—I should wish to mention that our property is chiefly held of prebendaries. It has been customary to make family settlements on that leasehold property. At the present moment we have no certainty of any such settlement being able to be carried out, and that is one great cause of the soreness in our county. I know of a case where a man fancied previous to his death that Church leasehold property was the safest property that could be held in the world, and he left every thing that he had in copyhold and freehold to be divided among his younger children, and he left his Church leaseholds to his eldest son; that son was a life in the lease; the prebend is dead, the stall has lapsed, and that young man at his death will not have one farthing, except what he can save, because we are unable at the present time in our county to renew under the Ecclesiastical Commission.

2650. Do you mean to state that there is great loss and more misery occasioned by that state of things?—Yes, I do.

2651. Supposing any plan were proposed by which instead of that sort of vague moral expectation you would have a perfect certainty of renewal, and that you should have a legal power of compelling renewal, would not that be a something that you would be ready to purchase at a price?—Yes. I have now an estate in the market; it is Church leasehold, and I cannot get a bidder for it, and two years ago it was in the market, as

nice

nice an estate as could possibly be seen; nobody would bid for it, from the great uncertainty under which we labour in this respect.

2652. Have you at present all improvements valued against you on each renewal?—Yes.

2653. There are no means, are there, by which before you make improvements you can make terms with your superior landlord as to those improvements, that the value shall not be charged against you upon the next renewal?—No, there is no possibility of that.

2654. Have you the possibility of making any provision by which arrangements could be made in regard to such improvements, that they should not be charged against you, or any rule as to those improvements by which they should not be charged against you, except after the lapse of certain periods?—No.

2655. Would such a power be a very great improvement to the tenure of such property?—Yes, it certainly would; and there would be a very great deal of inferior ecclesiastical land made really good land.

2656. Is it not a drawback to the possession of land of that kind, that you have hanging over you, not only the possibility but the certainty, upon any lapse, supposing the party renews, of having such improvements valued against you?—Yes, that is so.

2657. Has any custom prevailed in regard to improvements in renewals upon lives in the diocese of York?—I think not.

2658. For instance, in regard to building, if a man wants to put a building upon a farm which he holds, is he allowed for it at all?—No, he is not allowed for it at all.

2659. Is he not allowed for it in the next renewal?—No; he is charged for it.

2660. (*To Mr. Newman.*) Is that your notion? Do you not take those matters into consideration?—I conceive that sometimes an allowance is made for late improvements by the land valuer. He is the person who would do that, it does not come within my province as actuary.

Mr. Clough. It comes within my province, as I am the owner. I have 1,800 acres of land that is prebendalhold, and it is of great consequence indeed to me as the owner; it is of vital consequence, and I speak feelingly.

2661. If you put a building for the purpose of improving your land according to the modern system of agriculture, that is, for feeding more stock and bringing more manure upon the land, or anything of that kind, would that increased value be taken into consideration in case of your having any necessity to make a renewal?—Certainly; decidedly.

2662. Would any process by which you could be secured against that be worth something substantial to a lessee?—It would be particularly satisfactory.

2663. Besides the liability of having your fine raised in consequence of the improvement, is there not some liability of having the fine raised by a different calculation of the tables upon which you shall renew?—In renewing with our prebends we never know on what ground the calculation is made; they will not furnish us with the particulars; and I can give you a case in my own instance, where my father died, and I was obliged to renew instantly; the prebend sent his valuer over; it was previous to my father's death; my father ought to have put the life in; the prebend sent his valuer over; he valued the land; my father said he would not pay the fine as it was valued; it was land that was in settlement; he did not pay the fine, and when he was laid on what was supposed to be his death bed I was obliged to send an express over to get the lease signed, and to send a check for the money myself. My father did not die at that time; he lived nine months afterwards. I then had time to inquire how this valuation was made; it was supposed to be a very high one. I could not get the information from the prebend; he did not know; his land valuer would not give me the information; he withheld it. I went to the chapter clerk. The prebend said, "If you can get in any way at the valuation you are at liberty to use it." I went to the chapter clerk at York, and I got the valuation. I then found the prebend's valuer had put 110 acres of my own land into the prebend's value. The cause of that was, because they will not tell us on what ground they go. I mention this, as the question was asked whether we had any data for calculating how our fines were paid.

Mr. Newman. I should state that the prebend sends the data to me and I make the calculation. He sends it as an A. and B. Case. I find the number of years purchase without knowing any thing about the valuation, although I sometimes see the valuation when the sum is sent to me. I merely answer it as if it were a pound rent.

Mr. Clough. The statement I have to make finally is, that we all feel in the county of York that for the benefit of the Church it would be most satisfactory that this thing were permanently arranged. It has caused a feeling of distrust, they do not say against the Ecclesiastical Commissioners, but they say against the Church. There are a great number of yeomen who are lessees in our county, and it has estranged the good feeling that was in being towards the Church entirely from the Church from the hard manner in which we have been dealt with. I think a settlement of this matter would be most satisfactory to all parties. I should mention also that there are vast numbers of the yeomen of York were parties to the proposal which we have laid before you.

Mr. Newman. It would be as well to say that you do not come forward in any manner as opponents to the Church, but rather to the Ecclesiastical Commission.

Mr. Clough. Far from being opponents to the Church, we wish to see a good feeling, and our object is to see the best feeling exist between the lessors and the lessee. As for myself, I always

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always support the Church, because I have built schools, and compelled people to go to Church, and so forth; and so far, I support the Church. I am a churchman, and consider it my duty to support the Church in the strongest way I can.

2664. Have you anything to state with regard to the number of lessees you represent, or the value?—We had a meeting called together at a very short notice the other day, and we had between fifty and sixty lessees in the room at the time, and Mr. Newman, I believe, has seen upwards of 200.

Mr. Newman. I know that the number of lessees on the archbishop's books are about 300, and there is the dean and chapter's and the prebendal estates besides.

Mr. NEWMAN examined.

2665. I think you stated just now, although the lessees for lives, you thought, had rather the worst monetary position, that they were in other respects in a better one. State the grounds for that preference?—I think my experience leads me to believe that an average of three lives in the archbishop's lease for many years past would be about fifty-four years existence, and as life has I may say improved very materially of late years, the average would be at present rather above fifty-four and nearer sixty years. There is therefore nearly a certainty of a term of about sixty years possession of such an estate, with which therefore a man may deal much more pleasantly than he can now with a term of only twenty-one years, and it is on that ground I should say that they allow seven per cent. Seven per cent. is allowed on the lease for twenty-one years because it is so short a term, and because of the expense of renewal, and the trouble of renewal, the cost of law charges, &c., and then comparatively five per cent. is thought to be quite fair in a longer term for lives. It would be more advantageous to you to lay out 1,000*l.* to pay seven per cent. for twenty-one years, as a mere money consideration; the twenty-one years lease at seven per cent., renewed always, is the more valuable as the mere money consideration; but taking into account the length of the term which three lives gives, and the comparative fixity of the tenure, I think I should prefer to hold my estate for three lives, notwithstanding that difference in the rate of interest.

Mr. Clough. I can speak on the part of the lessees, that we should have no objection that they were restored to their old plan for a certainty; but the ground has been cut from under our feet in a most extraordinary manner.

Mr. CLOUGH examined.

2666. Supposing the old plan were still to exist, and if you could restore the same confidence that existed before, would you not still have this drawback on the old plan, namely, that of having your improvements always valued against you?—Yes; and that was the only objection.

2667. And is not that a considerable drawback to agriculture?—It is a considerable check to improvement.

2668. Does it not prevent material improvements in farm buildings?—Yes.

2669. Is that felt as a check now to thorough drainage?—Yes, very much so. A man cannot tell how soon his lease may fall out, and then he finds he has expended his money upon another man's property.

2670. With a view to all material improvements, would not some alteration in the tenure be most desirable?—Certainly, most desirable; and if it could be fixed it would be more marketable.

2671. Do you conceive it would be more desirable generally for the lessee to have a change to a fixed sum for emancipation, or an increased reserved rent-charge?—I think many parties would not be able to emancipate; a vast number of people would not be able to enfranchise their estates at once; they might and they would prefer paying four per cent. interest for their money, leaving that as the perpetual rent-charge, and in the course of time, in case they were so lucky as to get a legacy, then to be able to redeem.

2672. Do you think the conversion of this system of tenure into a rent-charge would be construed an ungracious one or generally displeasing?—No, but I think it would be exceedingly difficult to get at the average of fines, unless in recent cases; and I will tell the Commissioners why. I know that in my own case my father exchanged my life for that of George the Fourth, and he gave 1,000*l.* to the prebend to take my life in lieu of George the Fourth; then there came an Act of Parliament which prevented that exchange of lives; then came the handing over all the Church estates to the Ecclesiastical Commissioners; and therefore I think it must be seen that it would be extremely difficult to arrive at an average of the fines.

Mr. Newman. Take the case of the Bishopston lease. That yielded an enormous fine to the see of York within a few years. When that falls in the average income of the see will be much higher. A fine of 50,000*l.* paid at once will raise the average income of the see.

2673. Do you think it would be difficult in such a case to convert the fine into a rent-charge?—There will always be a difficulty to ascertain it; it must be so from its very nature. The largest estates, it may so happen, will fall in frequently; while some of the same estates are continuing for a great number of years.

Thursday, 24th May 1849.

Mr. George Cowen examined.

Mr. George Cowen.

24th May 1849.

2674. Where do you reside?—Dalston near Carlisle.

2675. Are you a leaseholder under the Dean and Chapter of Carlisle?—I hold five leases under the Bishop myself, and one in right of my wife.

2676. Are yours life leases, or are they leases for terms of years?—I hold both; I have three leases of my own for lives, and two leases for twenty-one years, and a lease of my wife's for lives.

2677. Have you a particular scheme which you wish to state with regard to this kind of property?—I have a scheme founded upon a calculation, and my proposal for a computation would be that the fines should be converted into annual rent-charges or reserved rents, that the remainder should be calculated as freehold Property, that the marketable value should be taken of the property in the neighbourhood whatever it may be, and that the difference between that marketable value and freehold property should go to the Church.

2678. Do you mean that supposing you took the fee of the land as worth thirty years purchase, and that leaseholds were selling in the neighbourhood for twenty or twenty-two years, that you would give the difference to the Church, converting that sum into a rent-charge?—I would wish to explain. Since 1837, when this question was agitated before Parliament, I consider that leasehold property has not been selling so well as it did before that time, so that I would take the value of leaseholds previous to 1837, because the agitation of the question in Parliament made some difference in the marketable price. I have before me two cases of the purchase of leasehold estates in 1817 which I will state to the Commissioners. As regards the first one, it was bought in the year 1817, and had twenty years to run; it was purchased by Mr. Bunting; the net rent was 264*l.*, and the price which was paid for that was 5,300*l.*, which would give the number of years purchase as 20·07. I should think that that is about the medium price. But I have another which sold for a much higher price in 1817, bought by a Mr. Wilson; the lease had fifteen years to run, the net rent was 115*l.*, and the price paid for that was 2,356*l.*, which would be 20·40 years purchase; that is the highest purchase I have heard of. The first case I mentioned I should call an average purchase.

2679. Should you take the difference between the twenty years purchase and the thirty years purchase as the interest which you would admit the Church to possess?—I would first deduct the reserved rent; I would convert the septennial fines, after adding interest at four per cent. for seven years, into an annual rent-charge; I would take that also from the rent, and then I would calculate the remainder as freehold; and taking the value of the freehold in the neighbourhood where it has been sold, the difference between the sums so obtained in the mode I have mentioned and the freehold I would give to the Church, having reference as to the market value before 1837.

2680. Has this reference to land or to houses?—Land.

2681. Have you reduced your scheme into writing?—I have made memorandums for my own purposes, and the way I have taken it is this: I have written that the first basis of the commutation would be to convert the old fines into a perpetual rent-charge or yearly payment, deduct that from the freehold value, then deduct the lessee's interest estimated by its marketable value before 1837, and give the remainder to the Church.

2682. What do you take the freehold to be?—About twenty-eight years purchase.

2683. Can you give any other instance of the sale of leasehold property?—I have given an instance which I consider to be a fair average purchase, the case of Mr. Bunting in 1817; there the gross rental was 264*l.* 7*s.*, the reserved rent was 3*l.* 9*s.*, the septennial fine converted into an annual rent-charge calculated with interest at four per cent. would be 65*l.* 4*s.*, making a clear rental of 195*l.* 14*s.*

2684. What do you take for the fine? A year and a half's rental?—A year and a half has been the fine hitherto taken.

2685. Instead of the septennial fine of 400*l.*, your proposition is that there should be paid an annual rent-charge equivalent to it?—Yes; the septennial fine in this case would be 391*l.* 7*s.*, the expenses would be seven guineas, making nearly 400*l.*, and this, reduced to an annual rent-charge, would be 65*l.* 4*s.*

2686. Do you make any allowance for interest accruing on a fine paid at the beginning of seven years?—I calculate four per cent. interest on the first compound interest table in Inwood; I consider it as seven years rent paid beforehand.

2687. Do you take a year and a half as the constant fine to be paid on the renewal every seven years?—Yes, after deducting the reserved rent.

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2688. Has it constantly been the case with the Bishop of Carlisle?—The Bishop of Carlisle has hitherto until lately taken one year and a half; he is now taking more.

2689. When did the alteration begin?—I had lately occasion to consult upon it on a lease of my own; I represented that I had been told on inquiry at that office before I purchased that the fine would be one and a half years value, deducting the reserved rent and something for repairs, and the steward then told me that they had been blamed for being bad managers of their property, and that therefore they had now increased the charge.

2690. Do you know the date of this change?—I think it is about twelve or fifteen months since when I was told this.

2691. Can you tell me when the change began?—Yes, pretty nearly.

2692. When was it?—The change might commence about six months before that.

2693. What is the new fine?—I understand that the bishop is asking half a year and the dean and chapter a quarter of a year more on some leases for twenty-one years.

2694. Has the change in the dean and chapter's demand anything to do with the change in the bishop's?—Not that I know of.

2695. Is that the only change that you are acquainted with in the mode of assessing the fines?—The only one.

2696. Have they ever been accustomed to take a year and a quarter?—Upon building property in some cases where the responsibilities were great the bishop formerly has taken less than that for a seven years renewal. On leases of forty-years the chapter took three quarters of a year's value every fourteen years.

2697. Upon land have they ever taken a year and a quarter?—Upon land not less than one year and a half for seven years.

2698. Then upon land is this the only change that you are acquainted with, a change from a year and a half to two years?—Yes.

2699. Has the bishop obtained the fine upon the two years?—I do not know of any person who has paid it.

2700. Are the bishop's life leases or for years?—Life leases generally for land.

2701. You state that leasehold property has sold for less since 1837 in consequence of this matter having been agitated in Parliament; can you mention what is the amount of depreciation in consequence of that agitation?—I do not know of any that has been sold since the notice was given of an increase of the fines; I should say the price had fallen a little after 1837; still there was considerable confidence up to the time I mentioned; up to a year and a half or two years since; there have been few, if any, sales since that change.

2702. Do you consider that there was any considerable depreciation up to that period?—I do not think it was very considerable until it was known that the renewal fine would be increased.

2703. Will you proceed with the details of your proposition?—I have stated that the clear rental with regard to this property of Mr. Bunting would be 195*l.* 14*s.* treated in the way I have just stated. Take the 195*l.* 14*s.* clear rental at twenty-eight years purchase, the value of the fee simple would be 5,479*l.*, the purchase money of the leasehold was 5,300*l.*, then my plan would be to raise that lease which had twenty years to run to a twenty-one years lease, that is to make the lease full; to do this it would be necessary to pay one year of the annual rent-charge 65*l.*, to raise it to a twenty-one years lease, and that would have to be paid to the lessor, I conceive, in money at once; that added to the actual purchase of 5,300*l.* makes the purchase money 5,365*l.*, which, deducted from the former sum of 5,479*l.*, leaves 114*l.* for the reversion between the leasehold and the freehold.

2704. Then do you give that 114*l.* to the Church?—Yes.

2705. Besides the one year's reserved rent of 65*l.* 4*s.*?—Yes; the reversion of 114*l.* converted into a rent-charge at four per cent. will be - - - £4 11 0

The reserved rent as before will be - - -	3	9	0
Fines converted into a rent-charge - - - -	65	4	0
Making a total rent-charge - - - -	73	4	0

About six per cent. increase on the old fines.

2706. Would that be 73*l.* 4*s.* for ever?—Yes, or it might be regulated by the corn value.

2707. Would you give the lessee the fee, subject to this rent-charge?—Yes.

2708. Do you contemplate the rent-charge varying afterwards according to the value of the property?—If it were building property, or anything very peculiar, it might be considered necessary, but not in regard to land evidently likely not to come under that denomination.

2709. Do you contemplate any re-valuation at any time of the property?—Certainly not of this land, because people by this plan might be induced to make improvements, which they have not hitherto felt inclined to do, and would not make, excepting on freehold.

2710. But

2710. But do you contemplate any re-valuation?—No re-valuation, excepting where it is evidently valuable building ground, or something of that kind.

2711. Do you not imagine that this plan would be one affording great advantage to the lessee?—With reference to that I should state that, I think, previously to 1837, and even for some time afterwards, lessees had very great confidence in this tenure, and they were giving very nearly the freehold price for such leaseholds.

2712. But do you not conceive that the plan would give a considerable advantage to the lessee at the present time?—I consider it would now since the question has been agitated.

2713. Do you make any allowance in your calculation for the advantages a lessee gains?—Yes, I give all the difference between freehold and leasehold, taking the marketable value. I consider on account of the improved value being made at the renewal of the lease that this difference has accrued. It is merely because the valuation of the time of the renewal is always upon the improved value that there has been any difference between freehold and leasehold.

2714. And do you not in that supposition suppose that the same advantageous terms would be secured to you, that the lessors would never vary in their terms?—Yes, I consider in that case that the full freehold price would have been given for this property.

2715. Do you consider, therefore, that the lessors should be prohibited from making the higher demands which they are now making?—Yes, certainly; and I think if some such plan were adopted it would be an advantage to all parties; that the Church would be getting what they have not got, and that the tenants would have the opportunity of improving the property.

2716. Would the Church get more than what the Bishop of Carlisle and the chapter are now requiring?—Yes, they would; they would get this in addition.

2717. Would they get more by your arrangement than they will get by the increase which they are making now by their fresh demands?—No; I consider if these fresh demands are complied with, and made general, that they would get more than I give.

2718. Would you preclude by legislation their making these higher demands?—I do not think those high demands would have been made if the matter had not been agitated in Parliament.

2719. Have they not been made in other chapters?—They were not made upon us previous to 1837.

2720. Might they not have been?—They might have been, but they held out inducements to us to show that it would not be so. Here is an advertisement in 1815 of two farms that had originally been common land, divided, and this was an apportionment of the Dean and Chapter of Carlisle, and this is advertised by the Dean and Chapter of Carlisle, and the steward's name is to it; it says, "The above allotment will be holden of "the Dean and Chapter of Carlisle by lease for the term of twenty-one years, renewable "as a beneficial lease, and subject to the annual payment of 3*l.* each." That beneficial lease was one and a half years improved value.

2721. Is there anything in that advertisement about the one and a half years value?—No, but that has been the practice, and these people have actually put large farm buildings upon that very property.

2722. Was that property sold?—Yes.

2723. And the purchasers put extensive farm buildings upon them?—Yes, and which I consider they would not have done if it had not been upon the faith of such a statement as that.

2724. Was the value of those improvements which were put upon the estate taken into consideration against the lessee at the next renewal?—I am not certain whether they were at the next renewal or the renewal following.

2725. In all future times would you prevent any such advantage being taken?—Yes, I certainly would.

2726. Would you prevent the Church hereafter from having any benefit from the improvement of their estates?—Yes, I think so.

2727. Do you in equity consider them fairly as the estates of the Church, or do you consider them as the estates of the lessees?—I consider that if the Church gets the difference between the freehold value and the leasehold marketable value before 1837 they are getting more than they ever got before.

2728. Are they getting more than they ever got before if now they get the benefit from time to time of improvement upon their estates, which by this arrangement you propose they would be debarred from?—Sometimes the estates do not improve at all, but the contrary. I know an estate which is leasehold under the Dean and Chapter of Carlisle, where I believe the first improved renewal was three times the amount that it is now on account of the depreciation of the estate; it is bad land.

2729. Have you any other circumstances you wish to state?—I would state that in regard to property of this description, mills have been built and sold upon the knowledge that the improved value would be taken, but upon the understanding that the lease should

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be perpetual, and that large sums have been given for such property which would not have been but for the faith in the old renewals.

2730. In such cases has there been any arrangement that the value of the improvements should not be taken against the lessee for a given period?—So far as I know myself there has been no allowance of that kind.

2731. Are you not aware that the acts of such bodies as you have been referring to the lessors could not bind their successors?—With us they have been looked upon as a never dying body, and that the act of the one was the act of the successors.

2732. Do you mean that in practice the existing dean and chapter have never departed from the ground their predecessors had taken?—I believe not for the last 200 years in Carlisle. I should mention that their property is called burgage tenure.

2733. Do you not hold a good deal of mill property?—Yes, freehold as well as leasehold.

2734. Have you not to lay out a great deal of money upon it?—Yes, in repairs and in machinery, and in insurance.

2735. Until this moment have you had confidence in the renewal of your lease founded upon what you believe to have been the practice for 200 years?—Yes, I purchased under that belief.

2736. Have you laid out expense upon the property which you hold on the confidence of renewal upon terms which, you think, have never varied for 200 years?—Yes. I should wish to add as to renewal of mill property I should regard that rather differently from land as it has to be maintained; one of the leases, the Forges, which I hold, is about 100 years, another is more ancient, I do not know how much more ancient. The corn mill is 200 or 300 years old; the machinery of the iron forge belongs to me, but the building, though put up by the lessee at his own cost, belongs to the lessor, and to separate those of course would be ruinous to both; they are old, but adapted to each other, the value of each depending on the other.

2737. After all do you hold this property such as it is upon the confidence of renewal, resting as you say upon the practice of 200 years?—Yes, upon the improved value.

2738. That confidence of renewal resting upon no legal ground, but merely upon your assumption that it has not varied in lives for 200 years. Supposing you were told that you should have a legal right to renewal, and a power of compelling renewal, would not that add very much to the value of your interest in that property?—It would add something to it.

2739. Supposing it turned out that you were wrong as to this uninterrupted custom of 200 years?—Then I should say that it would be injurious to me and injurious to the lessor. Lessees would not build or improve upon a twenty-one years lease without a promise of perpetual renewal.

2740. If the expectation of renewal which you now have, not being founded upon any law, were sanctioned by law and made legal, would not that add considerably to the value of your interest as lessee?—It would add to the value of my interest.

2741. Would you not be content to pay something for that?—Yes, I would.

2742. Supposing it turned out upon investigation that there was no such immemorial custom as you supposed, would not that be a great detriment to your interest as lessee?—I think the detriment would be mutual.

2743. Would it not at any rate make a great difference to you as a lessee?—Yes.

2744. Would you be content to give something more for a certain and legal right of renewal?—I think I would run the lease out rather than give a great deal, as that kind of property would not bear much increase.

2745. Would you of the forge mill?—Yes, I would; at least it would depend upon the demand; if the demand were very great I would be compelled to run the lease out; properties of that description are subject to extraordinary depreciations, and stoppages.

2746. Suppose I were to prove to you that you were mistaken as to this immemorial custom, would not the value to you of the perpetual right of renewal upon reasonable terms be much greater?—I do not understand the proposition.

2747. You start with a supposed immemorial custom of 200 years; suppose it were proved to your satisfaction that you were wrong, and there were no such immemorial custom of that kind, would not your interest in getting that power of compulsory renewal become greater and more valuable, and therefore more desirable?—It would be more desirable; but if you will allow me I will give an answer in my own way; the confidence has been so great in the lessors having an interest to renew that it has been considered almost as a certainty; and previous to 1837 I should consider that nearly the full freehold price would have been given for the leaseholds; in fact, in the way I purchased since 1837, I do not make more than four per cent. after all that ought to be is deducted.

2748. Do you mean to state, with reference to the mills you have purchased, that it would not be worth your while under such circumstances to renew?—It would not, considering that I am not making more than four per cent., and the property perishable.

2749. Would it answer your purpose better to run it out?—Yes, I would run it out if heavily burdened. I am already under great responsibilities; for instance I am to secure the

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the keeping of that property insured against fires; I do not insure, I stand insurer myself. I am subject to floods; the bay for that property cost upwards of 800*l.* to the lessee about fourteen years ago, when it was washed down, being about nine years value on the lease; therefore I say I would rather run the lease out than have a very great increase added, considering the great responsibility and the small interest which I have in it, which is only four per cent.; but if I were compelled to run out the lease I should do no more repairs but such as could not be avoided; it would, if heavily burdened, be to my advantage to do so, as it is a kind of property subject to great expense, depreciation, and stoppages.

2750. Could you not be compelled to do the repairs during the twenty-one years?—Only so far as the walls and roofs to be kept standing.

2751. Not to the machinery?—No; that is my own.

2752. Do you call this burgage property?—Mine is not burgage property; the burgage property is under the Dean and Chapter of Carlisle; there are about sixty properties which I have said are called burgage tenure in Carlisle.

2753. Since 1846 the dean and chapter have been advancing one and three quarters years instead of one and a half years, have they not?—I am not quite sure to a few months; it might be in 1846.

2754. Do you know of any renewals which have taken place upon those terms?—I cannot say of my own knowledge, but there may have been.

2755. Have you furnished all the facts you wish to place before the Commission?—I think I have.

2756. In regard to the scheme you have presented, did you mean that it should apply to buildings like your own mills as well as common agricultural land?—The calculation that I have given is one upon landed property; a similar calculation should be applied to mill property, after deducting for responsibility, and repairs, and unavoidable stoppages, reducing it to freehold.

2757. Do you mean by the same sort of process that you have adopted?—Yes; but by a different table, as building property has to be upheld.

The following is the calculation put in:

New Laiths Hall, near Carlisle. Date of purchase, April 21st, 1817.

	£	s.	d.	£	s.	d.
Gross rental						264 7 0
Reserved rent			3 9 0			
Septennial fines converted into one annual rent-charge, calculated with interest at four per cent.			65 4 0			
						68 13 0
Clear rental						195 14 0
Fines	391	7	0			
Expenses	7	7	0			
Taking 195*l.* 14*s.* at twenty-eight years purchase, the value of the fee would be						5,479 0 0
The purchase money was twenty-seven years purchase			5,300 0 0			
One year of the lease expired, to be renewed			65 0 0			
						5,365 0 0
Reversion						114 0 0
Reversion 114*l.* calculated into a rent-charge at four per cent. will be						4 11 0
Reserved rent						3 9 0
Fines						65 4 0
						73 4 0

About six per cent. increase upon the old fines.

Mr. James Webb.

Mr. James Webb examined.

2758. Where do you reside?—I am a land agent residing at Worcester.

2759. Have you been connected at all with the management of Church leasehold property?—Not with the management of it, but in the purchase and sale of it, and the valuation from time to time, very considerably.

2760. Will you state to the Commissioners any observations you desire to make upon the subject?—I should state with respect to the leaseholds in the neighbourhood of Worcester, they consist of leaseholds of twenty-one years renewable every seven under the Dean and Chapter of Worcester and the Dean and Chapter of Christ Church, Oxford, and the leaseholds under the Bishop of Worcester are for three lives.

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2761. All of them? —All the bishop's leaseholds, I believe, are. We have copyholds for four lives, but those are a separate and distinct tenure. I do not recollect any instance of the bishop having leaseholds for terms of years; the dean and chapter's are all for terms of years, and not for lives; the dean and chapter and the bishop have copyholds.

2762. Do you speak with certainty as to this?—I have a very intimate acquaintance with almost every parish in the county, and I believe I am correct in saying that the leaseholds of the dean and chapter are all for terms of years, and those of the bishop for lives.

2763. Do you mean exclusively in each case?—Yes; the leaseholds for terms of years are for twenty-one years renewable every seven, and they are generally considered worth in proportion to freehold land as about twenty-five would be to thirty. Land varies very much in Worcestershire; where the freehold would be worth thirty years purchase, the lessor and lessee's interest in the leasehold would be twenty-five.

2764. Do you mean to say by that that there is five years lost between them?—Yes, five years lost between them. We have never had an instance of a lessor's interest in Church property being sold, but we know when we are selling the reversion to an estate of a similar nature that it always produces something less than the value calculated by the usual tables, and the possession interest will always produce something more.

2765. What would be about the difference in regard to the reversion as below the tables? —About two years.

2766. Do you mean that the reversion would sell for about two years less than the tabular value?—Yes, and the possession interest about two years more.

2767. In that case what interest are you supposing to be in the lessee?—Whatever the interest was it would be in the same proportion. The renewal has been considered so customary a matter that when it is pretty nearly the time for renewal we deduct two years purchase for the two years rent that is expected to be paid as the fine, and we have never known them exceed two years or a year and three quarters as the renewal fine.

2768. What do you say does the possession interest sell for? More than the tabular value? —Two years; there may be some little difference, but that may be taken as a general rule.

2769. Would you state as a general rule that the reversion is worth in the market two years less than its tabular value, and the estate in possession is worth two years more than the tabular value?— Yes.

2770. According to that would not the two be the same as the value of the whole fee?— They would; they would be twenty-five years.

2771. When you speak of the value of the interest in possession being two years purchase more than the tabular value, do you not calculate almost upon the certainty of renewal?— Yes; I have never known an instance of a renewal being refused. The estate in possession used to be worth more, but within fourteen years that has been the difference as nearly as possible.

2772. That increased value, that two year's increased value in the purchase above the tabular value as the interest of the lessee, must rest upon the assumption that he has an indestructible right to renew, or a firm expectation, must it not?—We always consider that to exist; the term that we use is "the benefit of renewal," which we consider as being vested in the original lessee.

2773. When you speak of the lessee's interest selling for two years more (or the possession) than the tabular value, are you speaking in reference to Church leases?—Yes, I am speaking of Church leases. I was going to make a remark as to an exception in respect of land that is let at its very full value near a town, where nothing more can be made of it than the simple rent of the land, as is often the case for accommodation purposes; it would fetch but little more; but in purely agricultural districts a man has a greater beneficial interest in keeping the lease on, and therefore he would give more than tabular value, because he would not only have his natural interest on the capital laid out in the purchase, but he would have some benefit as cultivator of the soil, this description of property being purchased by persons for occupation, and seldom by capitalists for investment.

2774. Do you mean that as to accommodation land he makes nothing more than what he would let it for?—Yes; where lands are let at 4*l.* 10*s.* and upwards per acre close to a town we know in practice that the tenant can make but little, if any, more than that from them, and therefore they would not give so much more in proportion as they would in purely agricultural districts where lands let for 25*s.* or 30*s.* an acre.

2775. Have you ever considered what would be a fair means of improving the tenure as between the two bodies interested?—Yes; my attention has been drawn to it once or twice, and more particularly since the passing of the Copyhold Enfranchisement Act. My opinion is, that you should take as nearly as possible twenty-five years purchase as the value of the fee. You may take it in two ways, and you will arrive at the same result. On a property worth 100*l.* per annum held for a lease of twenty-one years, assuming the interest of the parties to be worth in the market twenty-five years purchase, according to the four per cent. tables, the lessor's interest would be worth eleven, and the lessee's interest fourteen years purchase. That would produce an annual rent-charge to the lessor of 44*l.* From that you should take about ten per cent. for the lessee's benefit of renewal, which is 4*l.* 8*s.*, which

which would reduce it to 39*l.* 12*s.* If you take thirty years purchase to be the value of the fee, and take eleven years and fourteen years as the marketable value of the present interest of the respective parties, and take afterwards the five years in the proportions that eleven and fourteen should bear to each other at three and one third per cent., it comes to exactly the same money.

2776. To what extent would the lessee's position be improved by such an arrangement as that?—He would have the benefit of his improvements. He would be in a far worse position than now if you look to the average payments that he has made, but he would have the benefit of his improvements in land and buildings.

2777. Would he not also have the certainty of tenure?—Yes, the certainty of tenure, and this advantage, which cannot be denied, that he could take the property into the market and obtain a greater number of years purchase than twenty-five, which the two interests would produce in their present state.

2778. What upon that arrangement would the lessor gain? How would he be benefited?—The lessor would gain a considerable increase in rent-charge beyond the annual average of the customary fines, and would be in the immediate receipt of it. Assuming as before a property of 100*l.* a year, and two years rent to be paid every seven years, which is quite the outside of what has been in our neighbourhood, it would be renewed three times in twenty-one years; that would be 600*l.* The lessor's average annual receipts would not by that process exceed 28*l.* 11*s.* 6*d.*

2779. Do you take that at four per cent.?—Yes; whereas by this calculation which I propose he would receive 39*l.* 12*s.*

2780. What kind of estate do you mean in this arrangement to give to the lessee? Do you mean to give the lessee the fee?—Yes, the lessee is to have the fee, subject to that annual rent-charge.

2781. Supposing the land is fifty years hence worth twice as much, do you allow of any increase upon that account?—There might be a few cases close to a town which it would be necessary to treat as special cases, and something might be added to the lessor's interest for the probable increase in value on account of its adaptation for building land.

2782. When you state that you would give the lessee the fee, do you mean that you would give him a legal right to renewal, or do you mean the fee subject to a rent-charge?—I mean the fee subject to a rent-charge, which might vary in agricultural districts, upon the same basis as the Tithe Commutation Act; but if it were near a town, where the rental would be likely to be derived from buildings, a fixed rental would be far preferable. The leaseholds for three lives, I think, should be taken in the same manner. I should take what the lessee's interest is worth according to the tables, and also the lessor's. We find that the two interests are in proportion to the value of freehold the same as in the case of leaseholds for years. I think the fines have been rather higher at each renewal on the leaseholds for lives than on leaseholds for terms of years, but they are not so frequent. They have taken pretty nearly the same amount for the fine in the cases of lives where the lessee has had a much greater unexpired term than the lessee for terms of years.

2783. Have you made any calculation which would show upon the average what the lessor gets upon the life interest?—It would be as nearly as possible one year and a half's rent every thirteen years. You may reckon that the lives they choose are good lives, and they take them from the best families of known constitution, and you may reckon that all the lives will drop once every forty years, so that as the leases are granted for three lives, once in every thirteen years they would get a renewal fine, amounting to about a year and a half's rent.

2784. Would they only have to renew in such a case once in thirteen years?—Only once in thirteen years.

2785. In the case you have just put, of the difference between the value of the lessee's interest in a lease for twenty-one years and a lease for three lives, the last is about double?—Yes, the lessee's interest is worth considerably more in a lease for lives.

2786. According to your view the Church would receive a rent-charge of about forty per cent. on the property, and the lessee would have the fee?—That would be so in the case of leaseholds for terms of years. The rent-charge on the leaseholds for lives must be regulated entirely by the lives left in the lease.

2787. But speaking of terms of years; supposing, instead of a fixed rent-charge, the understanding or agreement was that the lessor should have forty per cent. of the annual value determined periodically, say every twenty-one years, what should you think of such a plan?—Do I understand that it is to be subject to a future valuation?

2788. Yes, say every twenty-one years?—That I think would operate as a bar to improvements. I do not think a lessee would agree to those terms, and give up his present interest in his lease.

2789. Would he not for land?—No, I think he would rather let his lease run out, and have done with the property, than take the advantage of paying forty per cent. now, and then having it re-valued after his improvements at the end of twenty-one years, and thus make himself liable to pay forty per cent. on the value of his improvements.

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2790. In that answer do you mean to have reference to improvements upon land or houses?—Upon land and buildings.

2791. You say that the lessee would not renew upon the terms of having a fresh calculation, and allowing the lessor to have forty per cent.; supposing it should be deemed desirable that there should be a re-valuation, upon what terms do you think the lessee would consider that reasonable, a re-valuation being considered as a necessary part of the terms, when of course he would not have the fee?—I do not think they would consent to pay much rent-charge beyond what the present average has been; I do not see any advantage that they would obtain by it.

2792. How much do you state is the value in the shape of rent-charge which they now pay?—About 29*l.* in each 100*l.* I have here one of the bishop's leases in the neighbourhood of Worcester; and there is one thing which I ought to mention, which is rather in favour of the lessee. In all these leases there are no usual farming covenants, and if they were to run their leases out they might depreciate that land to the extent of two or three years purchase. They might underlet their land close to a town, let it for potatoes and other purposes, and obtain the highest rent for it.

2793. Would it not be open to the lessors to introduce on renewal such covenants as those you have referred to?—Yes, I expect it would.

2794. Are you not aware that the lessees would be subjected to an action at common law for cross-cropping, or for any permanent damage done to the property?—It would be a difficult thing in some instances to decide what the damage might be. There have been one or two cases in which I have been concerned where a great deal of latitude as to depreciation of property has been allowed. Our course of husbandry is not well defined in Worcestershire owing to the variety of soil on the same farm.

2795. In what way are the lessees liable in regard to dilapidations of buildings?—They would be liable to put those in repair, unless it were merely the natural result of time.

2796. Would they be liable if it were carelessness and neglect?—Yes; such as not repairing the roof at a reasonable time, and letting the water in.

2797. Could they be bound to render in good repair such buildings as they had put up in a reasonable time for the purpose of carrying on an improved system of agriculture?—That is a question that is very undecided. We think when they are put up for the trade and business of the party they are not bound to hand them over.

2798. Supposing they were to put up stalls for stall-feeding or box-feeding for increasing the quantity of manure, would it be understood that such buildings as those should be handed over in perfect repair to the lessor?—I think not, if put up after the granting of the lease. There is a custom with persons to build upon what is called a sill. A wooden sill is put along the bottom over a course of brickwork, and they consider they can remove such buildings, and take them away to the level of the brickwork if they do not disturb the soil. I should state, that I find in practice that leaseholds under the bishop have paid very much less than what the rent-charge would be under any scheme of the sort to which I have referred. In regard to this lease which I have before me I find the average payments from the year 1790 to 1849 upon an estate worth 400*l.* a year have not exceeded 39*l.* per annum, whereas calculating upon the tables I have mentioned the rent-charge would amount to 136*l.* 16*s.* per annum, after taking off ten per cent. for the benefit of the the lessee's right of renewal.

2799. How have you made out that the amounts received by the bishop during that period only reach the sum you mention?—I have here the actual sums which have been paid.

2800. Have they varied as to the proportions at different periods?—Very much.

2801. What sort of valuation has there been?—I see that in the year 1788 the fine was 350*l.*, the rent was then estimated at 300*l.* per annum. (I have not the ages of the two surviving lives.)

2802. Was the rent the same throughout?—No; I take them each as they come. In 1806 the fine was 550*l.*, the rent had increased to 390*l.* In 1809 the fine was 800*l.*, and the rent 390*l.* as before. In 1823 the fine was 600*l.*, the rent 410*l.*, and the present annual value of it is about 400*l.*; 100*l.* consists of mill property which is much depreciated; the land is worth a fraction more than it was in 1823.

2803. According to that the rent has increased, has it not, from 300*l.* to 400*l.*?—Yes, from 300*l.* to 400*l.*

2804. Would all future calculations between the bishop and his tenant be on the increased rent?—It seems that from 1806 up to the present time it was 390*l.*, and therefore the increase since 1806 is very trifling.

2805. When you say the sum received has been 39*l.* a year, have you not supposed in the answers that you have given that the rent throughout was what it is now, 400*l.*?—No; I have merely taken the actual facts.

2806. Have you worked out that principle backwards?—I have taken the rental now at 400*l.* per annum, as it is.

2807. At 400*l.* per annum, you say, the tables would show how much in principle ought to be paid to secure a rent-charge of 136*l.* a year?—Yes, they would.

2808. You say that the bishop has only received 39*l.* a year?—Yes.

2809. Was not that 39*l.*, in respect to a portion of it, taken upon a lower rental?—Yes; but for the last forty-three years it averages nearly 400*l.* (the present rental).

2810. Can you take it from 1806, since the rent has been nearly 400*l.*, and show what the effect would be in that case?—Yes; it would average 45*l.* 6*s.* 8*d.* per annum that has been received.

2811. What is the gross amount which has been received?—1,950*l.*, which divided by forty-three brings it to 45*l.* 6*s.* 8*d.*, and by my plan the sum that would have been received would have been 136*l.* 16*s.*; that is, the present lessee's interest (according to the four per cent. tables) would be nine and a half years purchase at 400*l.* per annum, for the lessor amounting to 3,800*l.*, which at four per cent. is equal to 152*l.* per annum. Deduct ten per cent. to lessee for benefit of renewal, 15*l.* 4*s.*, and that would leave 136*l.* 16*s.*, the net annual rent-charge.

2812. In the renewals in Worcestershire do they take into consideration the value of the lives remaining?—They do; they are more particular in that respect now than they were formerly.

2813. Do they only get the full tabular value in dealing, or is it matter of bargain?—In Worcestershire the lessors have generally been lenient, and have not taken the full tabular value.

2814. You state you have been employed in enfranchising some copyhold lands; how have you proceeded there?—The plan the parties adopted was to take the average receipts for the last twenty-one years, including the amount received from fines, timber, and chief rents; to that was added the sum of ten per cent., and then it was apportioned, taking into consideration the quality and nature of the property, and the ages of the lives in each copyhold. We have always considered the life interest in a copyhold for four lives as being worth about one quarter of the fee, or rather reducing the marketable value of the property as compared with freehold by one fourth; but in practice it is found that increasing the past average receipts by ten per cent. that the rent-charge does not amount to more than one tenth, and in the case I have lately been employed, to not more than one fourteenth of the annual value of the property; that what the lord receives now in lieu of what he had before does not exceed one fourteenth. We always considered copyhold not worth more than twenty-two years purchase, whereas freehold is worth from twenty-eight to thirty.

2815. Are they copyhold for four lives?—Yes, for four lives.

2816. Is there any widows freebench after that?—No, not in our copyholds; they are held in this way: one life in possession and three in reversion. On the death of a possession life three quarters of a year's rent is paid as the custom of the manor and a heriot, which is the best beast or chattel, usually commuted at so much money. On the death of the reversion lives there is three quarters of a year's rent paid without a heriot.

2817. How is the best beast usually estimated?—They generally use the bishop's book for that, and charge what has been previously paid.

2818. Is that without any relation to the actual amount?—Yes; they never take the best beast, as they do in some copyholds of inheritance; they never seize anything, it is always commuted into a money payment.

2819. Is that unvarying?—It has never varied in my time.

2820. What does the commutation amount to for the best beast?—It is about 10*l.* for the best beast or chattel, but varies according to the copyhold; the heriot is supposed to mean either the best beast or chattel.

2821. Is that the chattel heriot?—Yes, and if it is a small copyhold less than 10*l.* is taken; generally speaking 10*l.* or 12*l.* is the money heriot on a farm of about 200 acres. I have never known them valued, or any variation made from that custom. I think if this plan I have proposed in the case of leaseholds were adopted the lessee would receive great benefit in this respect, that he would be able to improve his property and be able to sell it at a larger number of years purchase; although on the other hand he will be paying considerably more in the shape of rent-charge for it than his past average fines amount to.

2822. Do you mean to state that upon the whole the lessee would not be much benefited by it, unless by gaining greater security of renewal, and that improvements made upon the estate would not be valued against him?—Exactly.

2823. There are two kinds of improvements; one, improvements made by the occupying tenant, others by the lessees who are the immediate lessees from the bishop. Are not the principal improvements made by the occupying tenants?—Yes, as far as relates to the general improvement of the soil.

2824. Do they ever make an improvement without calculating that they shall be repaid the value of those improvements within a reasonable time?—We seldom find our occupying tenants do anything more except farming a little better than usual, or making any permanent

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nent improvements beyond putting draining tiles in if found by the landlord. Most of the occupiers are holding from year to year.

2825. And are those things found by the immediate lessee from the Church?—Yes; I never knew an instance of its being done on leasehold land otherwise.

2826. As you are acquainted with the cultivation of land, do you not think that every draining plan repays itself, both to the landlord and the tenant, in a less term than twenty-one years?—I have not a doubt about it. I have drained a great deal myself in the last few years, and I am quite satisfied of it.

2827. Have you heard it stated at public meetings of agriculturists that tenants would be content to drain upon a term of seven years?—Yes; and I am of opinion that it would pay itself, in some sort of soils, in that time. I farm some strong rich wheat land. From the advantage of working your summer fallow properly the benefit in the first year's crop would in some seasons almost pay for the outlay. My land was injured by retaining the surface water in damp seasons too long, and the effect of drainage was very remarkable.

2828. Are the improvements which require the security of a long tenure such improvements as putting farm buildings upon the property?—Yes, farm buildings, and there may be sometimes drainage of an expensive nature where you would not obtain a fall without going to great expense by cutting deep main drains of considerable length.

2829. Should you say that the Church lands are as well farmed upon the whole as freehold lands?—I do not think they are, unless they happen to be intermixed with the freehold estates, and leased as they often are in the middle of such estates to a man of skill and capital.

2830. Upon the Church land do you think there is a kind of check to improvement?—Yes. In the first place you cannot fell your timber, which in Worcestershire is a matter of great importance. The hedge row timber in Worcestershire is in some parishes a complete nuisance. In the parish in which I live I have no doubt that the average rental of the parish exceeds 50*s.* an acre, and I do not suppose that the fields would average more than four acres and a half, and I have no doubt the trees if they were felled would nearly cover one third of the surface; they grow wild, close together. With regard to copyholds, we have always considered the copyholders interest in a copyhold was never worth less than twenty or more than twenty-two years. The fines are not considered with us as arbitrary; the steward of the bishop has said that they are, but if he was to attempt to enforce more than three quarters of a year's rent I think an application would be made by the copyholders to the Queen's Bench, and compel the putting in of a life on the usual terms. Whether the three remaining lives are aged upwards of ninety or twenty-one the fine has been the same.

2831. Taking this moderate rate of renewal, when you come to deal with the bishop and enfranchise the manor the copyholders get the whole estate in this fashion, and do they only lose one fourteenth part of the annual rent?—That is the case in regard to these copyholds which have lately been enfranchised; a little may be owing to the circumstance of one or two of the copyholds not having had a renewal fine within a great many years.

2832. Making allowance for that, would the general result of that transaction be, that whereas before the enfranchisement the bishop was entitled to about one fourth, and if you had been valuing as between the two parties you would have allowed one fourth for the lord's right, now after the enfranchisement you only allow one fourteenth?—We do not consider that because the copyholders interest is only worth twenty-two years purchase that the interest of the bishop is the difference between that and twenty-eight or thirty, as in the case of leaseholds, the two interests are not equal to an entirety. The steward's fees, which in small copyholds are equal to the fines paid to the lord, tend to reduce the copyholders interest to twenty-two years purchase; and, as with leaseholds, they are seldom bought for investment by capitalists, but generally for occupation.

2833. But the rent-charge to the bishop would only be one fourteenth instead of one fourth?—Yes, that is the case in the instance alluded to.

2834. Is it not possible that the lord of the manor, the bishop, or other may lose exceedingly by taking a term of twenty-one years, if it so happens that there are several old lives in the lease?—Yes.

2835. In the particular case of a manor, which has already been commuted by the Bishop of Worcester that has been so, has it not?—In the case to which reference has been made that was not a case of the whole of the manor; some of those who participated in the enfranchisement referred to had not had a renewal during those years for which the average was taken, and the lives were very old.

2836. Was there not a partial enfranchisement of the manor where a disadvantage of that kind occurred to the bishop?—Yes.

2837. What remedy would you propose for that, supposing that you were agent for the bishop?—That the whole of the manor should be enfranchised at the same time.

2838. Would you not propose that a longer average should be taken than was taken in that case?—I think you would prejudice the bishop's interest by doing so. It is rather a singular fact that nearly all the lands that are copyhold under the Bishop of Worcester are the best lands in the county, and in good situations, and that the rentals have increased.

2839. Do the fines bear some proportion to the actual value of the land?—Yes.

2840. Do you mean that you would take a lower rental into the calculation if you went further back?—Yes; if you were to go back more than twenty years I think it would be so.

2841. Do they assume in Worcestershire they have a right to renew copyholds?—On three quarters of a year's rental.

2842. Has that ever been tried in a court of justice?—It never has. I have never heard of an instance in which it has ever been refused. The present steward has said that there are instances, but I am not aware of any.

2843. You say the tenants claim it, and do you believe that they would try their right at law if it were resisted?—I do believe they would, and particularly at the present time when their attention is more called to it than it was formerly. In the case of a small copyhold very likely for the sake of 10*l.* in the renewal fine they would not like to contest it formally.

2844. What was the reason of part of the manor not being enfranchised?—It was the difficulty of getting other parties to join that did not understand it.

2845. Might they at that time have all come in?—Yes. I unfortunately held a small portion of copyhold myself with another copyholder, and he would not come in. He was afraid that he should be prejudiced, thinking that he should be charged by the average fines that had been paid from his estate (he having been unfortunate in his lives, and had more than the usual number of renewals), that he should be charged in proportion for the future what he had been for the past; instead of which he would have increased the total rent-charge to be paid from the manor, but would have had a fair allowance for having good young lives in at present.

2846. Was it from a misapprehension on the part of the tenants that they did not all come in when they had the opportunity of coming in?—Yes, and they are all signing now. We look upon it that there would be no difference between a leasehold and copyhold if it were not for the custom of the fine. If the fine was arbitrary our copyhold of four lives would be of far less value than they are, and not much better than leaseholds for three; the fine would come so much more often, and the heriots too; there is no doubt about the custom, and that it is a customary tenure.

2847. Is there more than one life liable for the heriot?—It is in this way: the dean and chapter's copyholds are two lives in possession and two in reversion; the bishop's copyholds are one life in possession and three in reversion; and I believe I am right in saying that the heriot is only payable on the death of the possession lives.

2848. Is not the man upon whose life the heriot would be payable the actual copyholder, and therefore is it not necessary that the person who holds should be one of the lives?—No. The lives named in the copy of court roll hold it in trust for the copyholders. The elder life is always termed the possession life; if the next man were eighty, that is one of the reversion lives, he would take the place of the possession life, and then a new reversion life is put in.

2849. Does that make the heriots fall heavy?—It does make them fall heavy; they come more frequently.

2850. Do they make any difference in the fines they take?—They take three quarters of a year's rent on both lives; the only difference is in the case of the heriot.

2851. Has the Bishop of Worcester much of that kind of property, copyhold for lives?—Yes; the dean and chapter have some little copyhold of inheritance. The manor of Lindridge is copyhold of inheritance. I should say half of the bishop's estates are copyhold for lives.

2852. Will you place distinctly in a table the propositions which you have been making with regard to the alteration of the tenure?—The following table represents in my opinion a fair method of altering the tenure and estimating the respective interests.

On a leasehold estate granted for twenty-one years, the clear annual value being 100*l.*:

	£	s.	d.
First.—The lessor's interest according to the four per cent. tables, 1,100*l.* - - - - per annum	44	0	0
Ten per cent. deduction for benefit of renewal -	4	8	0
Total annual rent-charge	39	12	0
Secondly.—Lessor's interest (at eleven years purchase its present marketable value) at three and one third per cent. - -	36	13	4
Proportion of five years purchase (the advantage gained by enfranchisement due to the lessor) 220*l.* at three and one third per cent. -	7	6	8
	44	0	0
Ten per cent. reduction for benefit of renewal -	4	8	0
Total annual rent-charge - - -	39	12	0

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On a leasehold held for three lives aged respectively fifteen, thirty-five, and sixty-five, the clear annual value being 100*l.*:

	£	s.	d.
First.—Lessor's interest according to the four per cent. tables, 600*l.* - - - - - - per annum	24	0	0
Ten per cent. reduction for benefit of renewal -	2	8	0
Total annual rent-charge	21	12	0
Secondly.—Lessor's interest (on six years purchase its present marketable value) at three and one third per cent. - -	20	0	0
Proportion of five years purchase the advantage gained by enfranchisement due to the lessor 120*l.* at three and one third per cent. -	4	0	0
	24	0	0
Ten per cent. reduction for benefit of renewal -	2	8	0
Total annual rent-charge	21	12	0

To the above rent-charge should be added the value of the reserved rents and timber calculated at thirty years purchase, or three and a third per cent.

Thursday, 7th June 1849.

Rev. J. Griffith.
J. J. Chalk, Esq.

7th June 1849.

The Reverend JOHN GRIFFITH and J. J. CHALK Esq. were in the room as witnesses.

The Reverend JOHN GRIFFITH examined.

2853. Are you vicar of Aberdare in the county of Glamorgan?—Yes.

2854. Is there any church property in Aberdare?—Yes.

2855. What are the circumstances of it?—Independent of the tithes, there are about thirty acres of land which they call "glebe land."

2856. Is that held in chief by the vicar?—No; the vicar has nothing to do with it. The fee belongs to the Dean and Chapter of Gloucester.

2857. In what way is it let by them?—It is let for a lease of twenty-one years, renewable every seven.

2858. What is the nature of the land?—It is very fine meadow land; but if necessary powers were given it would immediately be covered with houses.

2859. Do you think it precisely fit for building upon?—Yes, remarkably so, as will be seen by referring to this map. (*The witness produced a map.*) The land would soon be covered over with buildings if there were powers to do so.

2860. Are there no powers in the dean and chapter, with the consent of the Ecclesiastical Commissioners, to lease that for building purposes?—I should think they have not for the twenty-one years. That is only an opinion of mine.

2861. Could they not arrange it by coming to some agreement with the existing lessee?—Yes.

2862. Subject to that agreement, they have a power of letting on building leases?—They had a power of selling the land and allowing the railway to pass through.

2863. Was that under the specific railroad act?—Yes.

2864. Did they then take a portion of the value given by the railroad company for the land which was taken by them?—Yes.

2865. Do you happen to know what the proportion was as between the lessee and lessor on that occasion?—Yes; I can give it in figures. The gave the dean and chapter 300*l.* for about three quarters of an acre.

2866. And what did they give to the lessee?—136*l.*

2867. What interest had the lessee at that time in the tenure,—how many years?—This was in 1846, and he has renewed the lease in 1847.

2868. Had he at that time probably fifteen years interest?—Yes, something of that kind.

2869. Having fifteen years interest, he got 136*l.* and the dean and chapter 300*l.* Is that so?—Yes; this was not one of the old leases. The present lessee bought it in 1818. I do not know whether that affects the question of present value to the lessee or not.

2870. Who

2870. Who did he buy it of?—Of the Dean and Chapter of Gloucester.

2871. Was it a new lease altogether?—Yes.

2872. Do you know the terms of it at all?—No, I do not; but I can tell the terms on which it is renewed.

2873. State them, if you please?—It was first bought in 1818; then it was renewed in 1825, for which the lessee gave 45*l.*; he renewed it again in 1840, for which he gave 90*l.*; he renewed it again in 1847, for which he gave 108*l.* 10*s.*

2874. Has this land increased in value much since 1818?—Very much, and it is still increasing.

2875. Do you mean increasing in value from the increased rent derived from it?—The increased rent derived from it. The present net rental is from 150*l.* to 200*l.*

2876. As accommodation land?—Yes.

2877. Have some of these houses upon this map been built since 1818?—Yes, all of them, except six or seven; and in consequence of this not being able to be built upon the town is going down the valley away from the glebe and into another property which is a great inconvenience to the town generally.

2878. Are there not powers by which the dean and chapter and the lessee could agree together to develope the full value of this property?—We are not aware of any such powers. There is the greatest difficulty possible in adjusting it. I have seen some of the agreements, and particularly an agreement between the present parties who have built upon the land and the lessee, and he could not give them any term beyond his twenty years.

2879. Is the entire of this building land?—Yes. In fact it is so situated that the town itself half surrounds it.

2880. May not the lessee and dean and chapter join to grant a lease for ninety-nine years?—Yes, they may join; there is no question about that.

2881. Why do they not?—That I do not know. The lessee is a man particularly cautious as to his own peculiar interests; we cannot tell why it is not done. Perhaps I might mention this, which makes the property more valuable: it is not land surrounding the town, but the town is surrounding the land; and the inhabitants would now, if they could, take the road into the centre of it, and build a market place, so that in fact this would be the centre of the town. From drainage, from situation, from everything, it is unquestionably the most valuable piece of land in Aberdare.

2882. (*To Mr. Chalk.*) Is there not power by which the lessor and lessee could, together, let for a long term of years for building purposes?—Yes.

2883. Or for mining purposes?—Yes.

2884. Is any new power required in that respect?—No; the case would, I apprehend, come strictly within the provisions of the Act 5th & 6th Victoria, Chapter 108.

2885. (*To Mr. Griffith.*) Is the difficulty the lessee will not join in these building leases or mining leases?—I cannot speak about that. I cannot tell whether he will or not.

2886. What should you say is the value of this building land?—The value would be 3*d.* a yard on an average.

2887. Do you mean 3*d.* a yard the rental throughout?—Yes.

2888. Not confined to the choicest places?—Taking it on the average.

2889. Do you mean the freehold of this would fetch 3*d.* a square yard?—Yes; 3*d.* a square yard.

2890. A perpetual rent-charge?—Yes; you would be able to have for twenty-five acres 3*d.* a square yard, which would allow a sufficient margin for roads, &c. Some of it is now let at 2*d.* a yard on lease some years ago; and taking it as building land it would produce about 1,500*l.* a year.

2891. What is the power by legislation that you think is requisite for the purpose of bringing out the value of this land?—I am not aware.

2892. Independent of the value of this land as building land, do you imagine that there is a mineral value attached to it?—Yes, there is.

2893. Would the development of that mineral value interfere with its value as building land?—To some extent it might. There is coal and iron, and as to some of the coal it might do so. I should not think with regard to iron that it would. Taking all the veins together of coal there is in thickness fourteen feet and a half of workable coal.

2894. What value does that give?—The royalty would be, on an average, 10*d.* a ton.

2895. How many ton do you reckon per cubic foot?—That would give per acre 14,000 tons, allowing for waste and every thing. There are thirty acres of such coal; that would be 17,490*l.*, at 10*d.* a ton, if it were all to come to market to-morrow. There is some coal let for 1*s.*, and some under. The seams of iron are 13,500 tons per acre.

2896. What would be the value of that?—16,860*l.*

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2897. Upon the usual royalty?—Upon a royalty of 10*d.* The neighbouring work pays 1*s.* to Lord Bute. 10*d.* would be as much as you could reckon upon. I have taken the average.

2898. (*To Mr. Chalk.*) Are there full powers for working this, except for the obstruction of there being a lessee in possession?—There are powers under the Act I before mentioned of leasing it either for building or mining purposes; if for building, not exceeding ninety-nine years, for mining not exceeding sixty years.

2899. Is there any power of coercing the lessee to consent?—No, there is not. There is a power to lessees to surrender existing leases with a view to the granting of such new leases, and compensation is to be made to them for the interest so surrendered.

2900. But is there any compulsory power?—No.

2901. (*To Mr. Griffith.*) Supposing the lessee was the party who wanted to take this as building ground, might he surrender his lease and take a ninety-nine years lease?—Yes.

2902. If he objects to that does not the practical mode appear to be to give him for the duration of his lease a certain share of the improved value?—Yes.

2903. Is there not a power to do that without fresh legislation?—Yes; I presume so.

2904. Has any proposal ever been made to the lessee to take a part in such a transaction?—I am not aware of it.

2905. What mining district is this ground in?—In the neighbourhood of Merthyr.

2906. How close is this to Merthyr?—The mountain separates it. About three miles or three miles and a half as the crow flies; that does not add to its value, as we have already works in the parish.

2907. What are they called?—The Aberdare Iron Company is the principal work, then the Gadlys Company, then Bailey's, then Crawshay's, and a great many collieries; in fact the parish is very large, ten miles in length.

2908. Is it full of ironworks?—Yes; it is also full of iron and coal, as yet very little developed.

2909. By what tenure are the tithes held?—That I cannot find out. I wrote to the sub-agent, who I am afraid is from home, as he did not answer my letter.

2910. Are they commuted?—Yes. I can give you the particulars.

2911. What are the tithe rent-charges?—The rectorial and the vicarial are 352*l.* a year, and are commuted for that.

2912. Are they in your enjoyment, or divided?—I get 10*l.* of them.

2913. Is that 10*l.* your whole income?—The whole from the church property.

2914. Have you not any other income?—My net income is about 200*l.* a year.

2915. How is the other 190*l.* obtained?—Lord Bute gives me 75*l.* a year, and then I get the remainder from Queen Anne's Bounty and parliamentary grants and fees. The income I can depend upon as certain is only 180*l.* The fees are badly managed. I do not get each year fully a third of what I am entitled to. This is owing to the neglect of my predecessors.

2916. Is Lord Bute's a voluntary gift?—It was an agreement between him and the dean and chapter; in consequence he got the patronage of the living from the dean and chapter of Gloucester, and he has built a house and re-endowed the living.

2917. Has he property in the parish?—He owns the greater portion of the parish.

2918. Does it appear to you any alteration short of obliging the lessee to enter into the lease would answer the purpose you are contemplating?—No; I should think not.

2919. How many years are there still to run of this lease?—I think it was renewed in 1847.

2920. Nineteen years to run?—Yes; about that. I should like to make an observation with regard to the extent of this property. The lessee of this glebe states that it is only twenty acres, but two surveyors have given me the quantities, and they make it thirty acres, and the plan proves it. I took this from the railway plans.

2921. Would there be any difficulty, if the lessee chose to join with certain adventurers, to find people who would work the mine?—None whatever, though not as an independent work, thirty acres being too small; but the lessee is very sharp, and it is necessary before anything is concluded that every thing be well looked into. I have no doubt but he and the dean and chapter combine together to deprive the parish as much as they can of any of it becoming of use for the moral and spiritual improvement of the parish. I trust powers will be given so that nothing can be done without proper notice given to me as incumbent to watch their proceedings on behalf of the parish.

2922. Have you any reason to suppose the dean and chapter are not quite alive to the value of the land and minerals?—None whatever. But it is evident from what I have already told you, they have made a very bad bargain. I say this advisedly, and as a caution how to act in future. Unless it is looked into the parish will gain nothing by it.

2923. Do you suppose that the dean and chapter are aware of the full value of their property?—I should think they must be, they ought to be; the value is evident to any one who knows anything about Aberdare. In fact there is a very strong and a very general feeling on the part of the parishioners as to this excessive abuse of church property.

2924. Have you any reason to suppose they are unwilling to make the most of their property?—None whatever. They may, perhaps, feel themselves not competent to deal to their own advantage in this particular case.

2925. Must they not have some reason for acting as they do that you do not know?—Yes, I presume so.

2926. What did you mean by the statement that you made that they were combining with the lessee?—Because they might be afraid of any of it being given towards alleviating the spiritual destitution of the parish. In fact I have reasons to know this. They pay every attention to my letters as far as regards answering them and so on, but nothing further, though this is not the case with all. Our archdeacon cannot get an answer from them. He has told me so; and I attribute this to their consciousness of the position in which they stand to me and my parish.

2927. What is the population of this parish?—It is now 12,000.

2928. Is the only provision this single church with 200*l.* a year provided for it?—Yes.

2929. What is the acreage of the parish?—I can only tell the extent of it. It is ten miles in length one way, and lies along the whole bottom of a valley.

2930. Is the population a good deal dispersed or concentrated?—A great deal dispersed, which makes it more difficult for the clergyman to do the duty.

2931. Do you think there ought to be several churches to provide for a population of this description?—There ought to be at least four. As I have been asked, allow me to observe what the present accommodation is with regard to that. The church will barely accommodate 300, and not one sitting free. And in consequence of there being two languages in the parish, I am obliged, in order that the Welsh may have any service at all, to hold the service at an hour which is most inconvenient to their habits and their predilections to go to any place of worship; because the chief employers being English, and being the chief ratepayers, I so appoint that the English service is at eleven o'clock in the day, the most convenient hour for the Welsh, and the Welsh in the afternoon, when the generality of the Welsh working people go and lie on their beds. That is a very general habit of the working people. When complaining of this inconvenient hour a workman remarked, "That a man must indeed have a love for the gospel to go to worship at such an hour."

2932. Is an evening service that which suits them best?—An evening service at six o'clock; but there again I have that for the English.

2933. Have you three services in the day?—Yes; I have three services.

2934. Are you obliged to fix your Welsh service at the time the least suited to the habits of the Welsh population?—Yes.

2935. Could they oblige you to do that?—They could not; but it is no use my quarrelling with my parishioners.

2936. Do you mean with the Saxons?—With the English. Most of the rate-payers are the employers, and they are nearly all English.

2937. Do the lessors of this church property exercise the functions of landlords in regard to the contributing to the wants of the place?—No. I represented this want to the dean about two or three months ago, saying that we wanted more church accommodation, repeating what I have repeated, and hoping that if they could possibly give me the grant they would, and he sent me an answer to say that he would put my letter before the dean and chapter; but he held out no hope of a grant whatever, as they had spent lately a great deal of money on Gloucester Cathedral.

2938. Did you want a grant of money to aid in building another church in the parish?—Yes; merely as a subscription.

2939. Who is Dean of Gloucester?—I rather believe Lord Dynevor's brother. I may observe this, when there was a little agitation made with regard to this property, when I got into the living first, I asked them for something, I forget what; but it is of no consequence, as I did not get it. However, after a letter written in the John Bull newspaper, and copied into the provincial papers, they sent me for two years towards getting a curate for the parish 20*l.* a year, and they said they would continue it for two years. It is up next year whether they will so continue it, I cannot tell. If they do not, then I shall be without a curate. I have a curate, and for whom I receive from the Curate Aid Society 80*l.* towards his stipend. The dean and chapter have promised me 20*l.* for two years; but I do not imagine they will continue it.

2940. Is this building property all the property the dean and chapter have in this place?—And the tithes.

2941. Do you know what those tithes are worth?—352*l.* per annum.

2942. And what are they leased for?—The great tithes are commuted at 284*l.* and the small tithes 68*l.*, making 352*l.*

2943. Have

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2943. Have the Dean and Chapter of Gloucester both great and small tithes?—No; the small tithes belong to the vicar of Llantrisant, who lives at a distance of twenty miles off, and, of course, never comes near the parish but to get his dues, of which he gives me 10*l.* So from the dean and chapter I have nothing; the serving of the Church is not paid by them in any way.

2944. Is your church a chapel of ease under Llantrisant?—No, it is not; it was so many years ago, but it was made into a separate parish. The vicar of Aberdare is perfectly independent of the vicar of Llantrisant.

2945. The 10*l.* is an old charge on Llantrisant?—Yes.

2946. Have you applied to the Dean and Chapter of Gloucester for some addition to your living?—I did not apply for any addition to the living; I applied for a grant towards building another church, a church for the Welsh; and it is very hard for that people that they have no church of their own. Aberdare church now is essentially an English church, though the majority of the people are Welsh.

2947. The amount of interest which the dean and chapter receive is the fine on renewal of 284*l.*?—Whatever it may be.

2948. The great tithes, and once in seven years about 108*l.* 10*s.*?—Yes; and they give nothing towards the schools of the parish. My population is 12,000; my schools will not contain 120 children. I am endeavouring to enlarge them.

2949. Do you mean neither they nor their lessee?—No. I asked the lessee among the first when I came to Aberdare. That is more than two years ago; he has not yet answered my letter. I am told he never does answer that description of letters. Knowing more of him now I have ceased applying to him.

2950. Then, between the two, you have nothing?—I have nothing from him at all, and unless there is some great moral change in him, I have no hope of any.

2951. When you said the tithe was commuted for 284*l.*, is that the amount which the chapter receives or the lessee receives?—The lessee receives that.

2952. What do they receive?—I cannot answer that question.

J. J. Chalk Esq. examined.

2953. Have you the power of buying-up in spite of the will of the prebends?—We agree with the prebendary for his interest, and we then purchase the interest of the lessee.

2954. Have you no power of buying of the lessee otherwise?—There is no law to prevent it; but it is a general rule with the Commissioners not to buy of the lessee without first agreeing with the prebendary for his interest.

2955. At present have you any right to deal with the dean and chapter in that way?—I am not prepared to give a positive answer to that question. The Act 3 & 4 Vict. c. 113. contains provisions which bear strongly on the point; but until some case shall have arisen so that the opinion of the Crown lawyers may be ascertained, I should not like to speak decidedly. Under the provisions to which I allude, the Ecclesiastical Commissioners for England have commuted the interests of all the existing members of the Chapter of Southwell, and are now in possession of the whole corporate property (subject to the leases); but there is this peculiarity in the Chapter of Southwell, viz., that on the removal of all the existing members it is to be suppressed, and the estates would in that event have become vested in the Commissioners by the operation of the Act, without the arrangement I have alluded to.

2956. Would all that would be necessary to put you in the same position as to the dean and chapter which you are in with respect to the prebend be to extend that power to the deans and chapters that you have as to the prebends?—The act seems already to recognize the principle, and my impression is that it may also give the power, or at all events, that a few declaratory words would do so.

Rev. J. Griffith examined.

2957. Who manages the estates of the Dean and Chapter of Gloucester?—A gentleman in Cowbridge, John Bevan, Esquire, Newton House. There is one observation I should wish to make with regard to the population. I was not asked whether it was stationary or what it was at the last census.

2958. Is it an increasing population?—At the last census in 1841 it was 6,470, so that it has nearly doubled itself.

2959. Doubled itself in seven years?—Yes.

2960. Owing to the working of the mines?—Yes; the development of minerals. It is going on increasing still.

2961. Do the Aberdare Mining Company come near this glebe land?—Yes, it adjoins it; and different companies are working all round this land. There is land belonging to Mr. Clive, which, should it be let, the parties who take it will also probably take the glebe land to work it.

2962. Are they working close up to the glebe?—Yes; quite close on the other side of the churchyard.

2963. Would not the value of this property be reduced for building purposes by the working of the minerals?—I think not; but I may be mistaken. At all events not materially reduced.

2964. Is not this a very great discouragement to the Church in every way, and leading people quitting her fold?—They had quitted it almost entirely when I came there. The abuse of this property is the constant talk of the parish; and if I ask for any subscription of gentlemen, towards schools or anything else, they always say, "There is plenty of Church "property. Why is not that applied to this?" The old people know nothing of the Dean and Chapter of Gloucester. One old man nearly eighty, and another about seventy, told me last week that he always understood this was what he called "the property of the "Church," meaning the Aberdare church. I beg to observe this is not a case where a church is not wanted, even if the population were not so large. So scanty is the accommodation that I could give away thirty pews to-morrow, had I them, to respectable rate-payers anxious to have them. As for the working people there really is no room for them anywhere, however inclined they might be to go to church; and if people have no place assigned to them, I hardly need say there is not much inducement for them to go to church.

(*The witness has subsequently requested the following note to be added.*)

I have reason to believe that the lessee of the property is endeavouring to lessen by representation the real value of the property, as well as to increase his own interests in it. In reply to this, all I ask,—and I ask it on my own behalf as well as on the behalf of the moral welfare of the thousands of destitute souls under my pastoral care,—that the commission come to no terms with the dean and chapter and the lessee without proper notice being given to me as incumbent to watch the proceedings. I also request, on behalf of the parish, and particularly those who pay the principal rates of the parish, and with whom I have conferred upon this matter, that a rigid inquiry, if necessary, be instituted into this matter. That my evidence and the evidence which might be furnished by the agents of the dean and chapter, or by the lessee, might clash in respect to the immediate value of the property, is a thing very likely to happen. Our interests are so very different. Their anxiety is that the parish should have nothing, my anxiety is that the parish should at least have something. I ask for nothing but an impartial inquiry. My evidence of the value of the property cannot,—I say it confidently,—ever be shaken, as it has been furnished to me by highly respectable engineers and mineral agents connected with works and landlords in the parish. I also request inquiry into the manner by which the present lessee came into possession. That inquiry will show that this lease is not so valuable to the lessee as church leases usually are. That his interest in it is not so great. This has been already partly shown by a portion of my evidence. I am anxious, therefore, that this matter should be thoroughly investigated. Knowing the peculiarities of the case, I have taken the liberty to suggest to the Commission the leading points upon which inquiry is mostly desired.

JOHN GRIFFITH,
Vicar of Aberdare.

J. J. CHALK Esq. examined.

2965. ARE you assistant secretary to the Ecclesiastical Commission?—Yes.

2966. Have you had the charge specially of the business arising under the Act (5 & 6 Vict. c. 108.) for enabling ecclesiastical corporations aggregate and sole to grant leases for long terms of years?—Yes, I have; for the last four years.

2967. Have the Commissioners acted at all under those provisions of the Act which relate to leases of mines?—To a very small extent. Very few leases have been granted up to the present time. A few more are in progress; but they have been a long time in hand; they proceed very slowly. I think, however, that they are drawing to a conclusion.

2968. What are the difficulties with regard to mining leases?—Great difficulty arises under the 14th section of the Act, which provides "that in case of any lease of mines, "minerals, quarries, or beds granted under this Act, such portion of the improved value "accruing thereunder, as by the like authority" (that is, by a scheme of the Commissioners ratified by an Order in Council,) "shall be determined, not being more than three "fourth parts, nor less than one moiety of such improved value, shall forthwith and from "time to time as the same shall accrue be paid to the said Ecclesiastical Commissioners for "England, and shall be subject to the provisions relating to monies payable to them." There is a great disinclination, particularly in cases where the livings are in private patronage, to allow the Commissioners to take a portion of the proceeds; it is thought that the whole of the proceeds of the mine should be appropriated to the living itself.

2969. Are they not aware that they cannot develope those proceeds without the help of that Act?—A great many must be, though some, perhaps, may not; and I have very little doubt that the Act is, either by design, or through ignorance of its provisions, evaded

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in a number of instances. In fact, I think in the north and west of England very generally.

2970. In what way is that evasion carried out?—Simply by not coming to us at all; but whenever there is an opportunity they open and work a mine, without reference to whether it is an infringement of the law or not.

2971. Do you mean they do that without securing a title?—I mean the owner does or sanctions this. The lessee of course procures the owner's consent; but does not inquire into his right to consent. If the owner, that is, the incumbent and his patron, consent, the lessee goes to work.

2972. Does the lessee undertake the work without having any good security for his interest in it?—I suppose he does. In some cases they commence working under a licence to search for ores, &c., and should they find any they continue to work under the licences, and account to the incumbent for the royalty, we knowing nothing about it. I have not the slightest doubt that there is a vast deal of mining going on that ought in strictness to come under this Act of Parliament; but there is no clause in the Act that declares that any lease made contrary to it should be void.

2973. It is an enabling Act and not a restraining Act, is it not?—Yes. But in the present state of the law it would be a great advantage if power were given to the Commissioners to sanction licences (they having no such power by the present Act), and it were then distinctly enacted that any licence or lease granted without such consent should be void.

2974. Would you have an Act passed to allow of leases for eighty or ninety years?—The term allowed by the present Act, viz., sixty years for mines, is, I believe, sufficient.

2975. Would you pass a law to oblige people to take such a lease?—Virtually I would do this by prohibiting the working of mines, except under the Act.

2976. Is it not prohibited, and can you not go to law and punish them for so doing, now?—There may be some doubt. A distinction is made between opening a new mine and working an old one; but the point is this: suppose waste to be committed by working a mine belonging to any ecclesiastical corporation, who is to interfere if the patron and incumbent sanction it.

2977. What number of mining leases have come under your consideration?—They have been very few; there were two mining leases by the Bishop of Exeter, one quarry lease by the Chapter of Exeter, and two mining leases by the Chancellor of Exeter; but the last-mentioned property has by the avoidance of the chancellorship become the property of the Commissioners.

2978. Is the office of Chancellor of Exeter abolished?—I am speaking of the chancellorship of the cathedral, not of the diocese; the office is not abolished, but the estates became vested in the Ecclesiastical Commissioners upon the late vacancy; it is now a mere honorary office, except that any stipend for service actually performed that has heretofore been paid out of the chapter revenues is still payable, but, generally speaking, this is not an important sum. It thus appears that there have been, with regard to bishops, chapters, and prebendaries, and other officers in cathedrals, only five mining leases granted.

2979. What kind of mines are those you are referring to?—The Bishop of Exeter's mines are tin or copper.

2980. Are they in Cornwall?—Yes. The reservation or royalty is, in one lease, one tenth, and in the other, one fifteenth of the produce of the minerals sold, and the Commissioners, under the 14th section to which I have before referred, take one half in each case.

2981. Of what is that?—Of the reservation.

2982. Do you mean of the bishop's one tenth?—The whole reservation in these leases is one tenth and one fifteenth respectively, and one half of such tenth and fifteenth is reserved to the bishop, and one half to the Commissioners.

2983. And has that gone into the general fund of the Commissioners?—That has been carried to the episcopal fund. The sums received under this Act are carried to the episcopal fund or to the common fund, according as they are derived from episcopal or common fund sources.

2984. Then do the Ecclesiastical Commissioners treat this money as revenue or capital?—When these leases are completed my duty ends. The monies receivable under them pass through the treasurer's hands, and to him I would refer you for an answer to that question.

2985. You are not aware whether there is any accumulation or investment of that for permanent purposes?—I am not.

2986. What is the other lease you refer to; is that of minerals?—Both the leases by the bishop are of metal, tin or copper; that by the Dean and Chapter of Exeter is of a quarry.

2987. On what terms?—In the case of the dean and chapter, the reservation is a rent of 10*l.* per annum, and a royalty of 6*d.* a ton on all slate raised, 400 tons per annum to be paid for whether raised or not.

2988. That

2988. That is royalty?—One half of the royalty is in this case reserved to the Ecclesiastical Commissioners.

2989. Have you ever had any receipts from that source?—I understand from our accountant that we have not.

2990. Have you from the bishop's mine?—Yes; I am informed that we have received 1,272*l.*

2991. Is it annual income?—No; in the aggregate. We have received in all since the granting of the leases 1,272*l.*

2992. How many years is that?—The leases were granted in 1844 and 1845, so that is upon the average of, say six years, about 200*l.* a year.

2993. With regard to the other lease you spoke of, of the dean and chapter, if you received nothing more would you not receive something next year? Is there not an annual rent reserved independent of the working of the mine?—We are only entitled to take a portion of the "improved value;" and as in this case the previous surface rental of the land was 10*l.* we do not take any portion of the annual rent, we only take a portion of the royalty which constitutes the improved value.

2994. Then non constat you will ever have anything from that?—Yes, we must; because the lessee is bound to pay for at least 400 tons per annum, whether raised or not.

2995. Are you to take a share of that?—Yes, one half.

2996. Must you not have it next year?—It will, I have no doubt, be accounted for eventually, but we have not yet received it.

2997. Is not the lease a year old?—Yes, it is more than a year old. But there is nothing yet received, as I learn from our accountant; it may be question of account merely with our collector. We have a collector for the West of England who is resident there, and he sends his accounts in from time to time, and there may be a question between him and the treasurer which I am not aware of.

2998. In that case is there not a rent reserved quite independent of anything raised?—Yes.

2999. Does the whole of that go to the dean and chapter?—Yes; the whole rent in this case goes to the dean and chapter.

3000. Have you any other cases?—Yes; there have been granted by incumbents of benefices two mining leases, two quarry leases, and one for digging clay for tiles. Under the same Act the Commissioners are empowered to sanction building leases.

3001. Have the Commissioners sanctioned any such leases?—Yes, several.

3002. State some instances?—The first was a lease of a small piece of land in the neighbourhood of Durham which belonged to the canonry held by the present Archbishop of Canterbury when he was Bishop of Chester, and by his grace's translation has since become vested in the Commissioners.

3003. What were the circumstances of the case?—It was a piece of land containing two roods and twenty-seven perches, I believe almost waste land. The lease was for ninety-nine years, at a rent of 10*l.* for the first six years, and 20*l.* for the rest of the term; the property being now vested in the Commissioners is no longer subject to the Act, but the lease stands good as far as the lessee is concerned. There have also been some building leases granted by incumbents of benefices; there is one by the rector of Gravesend for ninety-nine years.

3004. Upon what terms was that?—The rent was 20*l.* a year.

3005. What proportion did that bear to the value of the land?—The quantity was less than three quarters of an acre, and the rent could not, I should think, have been one twelfth of the present rental.

3006. What has been your general method adopted in regard to these building leases; has it been to fix their amount of rent, or one increasing rent year by year?—Sometimes in one way, sometimes in the other. The course is this: application is made by the incumbent for the consent of the Commissioners to a building lease, and he states the terms upon which some one is ready to take it; under the 18th section of the Act the Commissioners are to appoint a surveyor, with the consent of the incumbent, who then surveys the property, and reports fully upon the case, and either recommends the adoption of the proposal or suggests such variation as he thinks expedient. The Commissioners usually act upon the advice of the surveyor as far as they can.

3007. So there is, then, no general principle observed?—There are certain general principles laid down by the Act; but the details depend mainly on the report of the surveyor.

3008. Does that question about "improved value" apply to building leases or only to mines?—Only to mines. There is, however, a power under the 13th section for the Commissioners

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missioners to take a portion of the rent, &c. reserved under leases granted by incumbents of benefices only, which applies to building as well as mining leases. At any time within three years from the date of a lease the Commissioners may, with the sanction of the Queen in Council, direct that after the next vacancy of the benefice such portion of the rent, royalty, or other consideration reserved by such lease, as may be deemed expedient, be paid over to them, "provided that the average annual income of such benefice shall not, under such "provision, be left at a less sum than 600*l.* if the population thereof amount to 2,000, nor "at a less sum than 500*l.* if the population thereof amount to 1,000, nor in any other case "at a less sum than 300*l.* This portion is applicable towards making additional provi- "sion for the cure of souls, generally provided that the wants and circumstances of the "place in which the lands, mines, minerals, quarries, or beds demised by such lease are "situate shall be primarily considered."

3009. Does that extend to benefices in private patronage?—Yes.

3010. Has it been extensively made use of?—There have been forty-one building leases granted.

3011. Are they of considerable value?—Sometimes they are. There is one, the vicarage of Upton-cum-Chalvey, near Windsor, a lease of ten acres one rood and twenty-nine perches, and the rent is, for the first two years 30*l.*, for the next two 60*l.*, for the next two 100*l.*, and for every year afterwards 180*l.*

3012. What was the previous rent before improvement?—The quantity was ten acres one rood two perches at an agricultural rent, the precise amount of which I do not know.

3013. What is the first rent you have there?—30*l.*

3014. And at what period will it have increased to the amount you have stated?—At the end of six years it would be 180*l.* a year.

3015. Does this power of leasing apply to all livings?—It applies to all ecclesiastical corporations aggregate and sole, "except any college or corporation of vicars choral, priests "vicars, senior vicars, custos, and vicars or minor canons, and except also any ecclesiastical "hospital or the master thereof."

3016. How many building leases have been granted under the Act by the incumbents of benefices?—Twenty-eight.

3017. What is the value at which they originally were, and the value at which they have now arrived?—This paper contains the particulars of all the leases which have been granted under the Act.

The witness hands in a paper, which is as follows:

List of Leases of Mines, Minerals, Quarries, and Beds granted under the Act 6 & 7 Vict. Cap. 108. from the date of Act, 12th August 1842 to 31st May 1849.

Corporation.	Date	Premises.	Term.	Reservation.
The Rev. C. Brackenbury, Rector of Wilsford, Lincolnshire.	1st July 1844	About three acres of glebe land at Wilsford, part of the Hurd Gorse, and all the depths and veins of stone.	13 years	£ s. d. Annual rent - - 34 0 0 Deduct surface value - 3 7 6 Improved value - - £30 12 6 One half to incumbent, the other to the Commissioners.
Right Rev. Henry Bishop of Exeter.	10th Aug. 1844	Mine called the North Sett, in the manor of Cargoll and parish of Newlyn, Cornwall.	21 years	One tenth part of the produce of the minerals sold, one half of which, or one twentieth of the whole, is reserved to the Commissioners.
Ditto - -	21st June 1845	Ditto - -	Ditto	One fifteenth part of the produce of the minerals sold, one half of which is reserved to the Commissioners.
The Rev. Henry Comyn, Vicar of Tancreed, Cornwall.	1st July 1845	The Beacon Mine Sett, in the parish of Tancreed.	Ditto	A money that is equal to the proceeds of one twenty-fourth of the ores (excepted), one twenty-fourth of the tin gotten not within tin bounds, and of one forty-eighth of the tin gotten within tin bounds, half of which several reservations is reserved to the Commissioners.
Dean and Chapter of Exeter.	2d April 1846	The Perna Quarries, in the parish of Staverton, Devon.	60 years	10*l.* per annum paid rent, and 6*d.* per ton on all slate raised. 400 must be paid for at least. Half the second reservation is to the Commissioners.

Corporation.	Date.	Premises.	Term.	Reservation.
The Chancellor of Exeter Cathedral as Rector of Newlyn.	10th June 1846	Mine in the parish of Newlyn, Cornwall, called the East Wheal Rose Metha Sett.	21 years	Yielding and paying a money rent, equal in amount to one thirteenth, or 1*s.* 4*d.* in the pound, of the monies for which such ores, metals, and minerals, obtained under that demise, should be sold, free from deductions, except on account of income tax, carriage, and sampling; the said money rent to be paid to the persons, and in the proportions following; viz. During the lives of Catherine Sophia Countess de Cassignan and Mary Hester Hawkins, and the survivor, two eighth parts, or 4*d.* of the said 1*s.* 4*d.* in the pound, to the said H. W. Sibthorpe and W. Ellisen, their heirs, &c., by way of compensation for their interest so surrendered. As to the remaining six eighth parts, during the incumbency of the said Joseph Holden Pott in the chancellorship, one moiety, or 6*d.* in the pound, to be paid to him, and the other to the Ecclesiastical Commissioners for England. After the deaths of both the above-named ladies, one half, or 8*d.* in the pound, during the incumbency of the said Joseph H. Pott in the chancellorship, to be paid to him, and the other 8*d.* in the pound to the Ecclesiastical Commissioners for England. After their deaths, and the chancellorship being vacated, the whole 1*s.* 4*d.* to be paid to the Ecclesiastical Commissioners for England.
The Chancellor of Exeter Cathedral, as Rector of Newlyn.	10th June 1846	Mine in the parish of Newlyn, Cornwall, called the Wheal Metha Sett.	21 years	The same as the foregoing.
The Rev. A. Leapingwell, Vicar of Haydon, Lincolnshire.	15th April 1846	1A. 2R. of glebe land in Haydon, with the right of quarrying stone.	Ditto	£ *s.* *d.* Annual Rent - - 20 0 0 Deduct old Rent - - 1 10 Improved Rent - - 18 10 0 One half to incumbent, half to Commissioners.
The Rev. C. R. Roper, Rector of St. Olave, Exeter.	19th Oct. 1846	Field called Lambs Park, in the parish of Faringdon, part of glebe land, containing 8A. 1R. 30P.	60 years	£ *s.* *d.* Annual rent - - 18 0 0 Deduct surface rent - 12 0 0 Improved rent - - 10 0 0 Half to incumbent, half to Commissioners.

List of Building Leases granted under the Act 5 & 6 Vict. Cap. 108. from date of Act 12th August 1842 to 31st May 1849.

Corporation.	Date.	Premises.	Term.	Annual Reservation.
Right Rev. John Bird Bishop of Chester, Canon of Second Canonry in Durham Cathedral.	18th July 1843	2R. 27P. of land in Holgarth Street, Durham.	99 years	10*l.* for first 6 years, 20*l.* for rest of term.
Rev. Dr. Joynes, Rector of Gravesend, Kent.	10th Feb. 1844	Then Church Piece, or old churchyard, Gravesend.	99 years	20*l.*, subject to being apportioned on the premises when finished.
Most Rev. William Archbishop of Canterbury.	29th May 1844	Plot 1 of the Dover Priory estate.	80 years	6*s.* first year, 7*l.* second, 14*l.* third, 20*l.* rest of term; 1*s.* 6*d.* redeemed land tax, 10*s.* to rector of Saint James, Dover, 5*s.* to P.C. of Beauxfield.
Rev. G. J. Dickson, P.C. of Saint Swithin, Lincoln.	23d July 1844	Piece of glebe land of this P.C., but situate in the parish of Saint Martin, containing 1R. 20P.	99 years	45*l.*
Rev. C. T. Champnes, Vicar of Upton-cum-Chalvey, Bucks.	17th Aug. 1844	10A. 1R. 29P. of glebe land near Slough.	99 years	30*l.* for the first two years, 60*l.* for the next two years, 100*l.* for the third two years, 180*l.* for every year afterwards.

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Corporation.	Date.	Premises.	Term.	Annual Reservation.
Rev. Mr. M'Donald, Rector of Blackland, Wilts.	28th Sept. 1844	2R. of pasture land in Cherhill, Wilts, called "Labour-in-vain Hill,"	50 years	2*l.* 10*s.*
Most Rev. William Archbishop of Canterbury.	20th Mar. 1845	Plot 2 of the Dover Priory estate.	80 years	5*s.* for the first year, 3*l.* 3*s.* second, 6*l.* 6*s.* third, 9*l.* 12*s.* rest of term. Other reservations as No. 3.
Ditto - -	Ditto -	Plot 3 of ditto -	Ditto	5*s.* for first year, 3*l.* second, 5*l.* third, 7*l.* 4*s.* rest of term. Other reservations as No. 3.
Ditto - -	Ditto -	Plot 7 of ditto -	Ditto	5*s.* for first year, 4*l.* second, 8*l.* third, 12*l.* rest of term. Other reservations as No. 3.
Ditto - -	17th July 1845	Plot 4 of ditto, containing 1R. 20P.	Ditto	5*s.* first year, 6*l.* second, 10*l.* third 13*l.* 10*s.* rest of term. Other reservations as No. 3.
Ditto - -	Ditto -	Plot 5 of ditto, containing 1R. 4P.	Ditto	5*s.* first year, 2*l.* 10*s.* second, 5*l.* third, 7*l.* 10*s.* rest of term. Other reservations same as No. 3.
Ditto - -	Ditto -	Plot 6 of ditto, containing 1R. 10P.	Ditto	5*s.* first year, 3*l.* second, 6*l.* third, 10*l.* rest of term. Other reservations same as No. 3.
Ditto - -	Ditto -	Plot 8 of ditto, containing 1R. 13P.	Ditto	5*s.* first year, 3*l.* second, 6*l.* third, 8*l.* rest of term. Other reservations same as No. 3.
Rev. Henry Comyn, Vicar of Tancreed, Cornwall.	1st July 1845	Piece of Land at Tancreed, called "The Little Grumbler," and some waste, containing together 6A. 2R. 32P.	60 years	4*l.*
Rev. Thomas S. Mills, P.C. of Littleborough, Lancashire.	2d Aug. 1845	Land, part of the White Lees farm at Calderman, containing 612 superficial square yards.	99 years	3*l.* 0*s.* 7*d.*
Ditto - -	15th April 1846	About 700 superficial square yards of land at the Yodmordon Road, with a cottage and waterlease.	Ditto	4*l.* 17*s.*
Most Rev. William Archbishop of Canterbury.	12th Aug. 1846	Plot 13 of the Dover Priory estate, containing 56 perches.	80 years	5*s.* first year, 5*l.* second, 9*l.* third, 12*l.* 10*s.* rest of term. Other reservations as before.
The Venerable C. Musgrove, D.D., Archdeacon of Craven, as Vicar of Halifax, Yorkshire.	16th Feb. 1847	7A. 25P. of land in the parish of Ovenden, and water flowing through the same, and leave to break through other land.	60 years	20*l.*, and 7*s.* 6*d.* per chain for other land broken through or injured.
Rev. William Antrobus, Rector of Saint Andrew Undershaft, London.	15th Feb. 1847	No. 113, Leadenhall Street.	80 years	32*l.*
Rev. P. S. Dodd, Rector of Penshurst, Kent.	18th Mar. 1847	3A. 1R. 15P. of glebe land at Penshurst, part of Three-cornered Field and Middlefield.	99 years	16*l.* 10*s.*
Rev. J. E. Gibson, Rector of Bermondsey.	25th April 1847	No. 124 and 125, Bermondsey Street.	72 years	17*l.*
Most Rev. William Archbishop of Canterbury.	16th April 1847	Plot 10 of the Dover Priory estate, containing 1R. 18P.	80 years	5*s.* for the first year, 3*l.* for the second, 7*l.* for the third, 10*l.* for the rest of the term.
Ditto - -	25th April 1847	Plots 14 and 15 of ditto, containing 1R. 12P. and 1R. 11P.	Ditto	5*s.* for the first year, 8*l.* the second, 12*l.* the third, 20*l.* the rest of the term.
Ditto - -	3d June 1847	Plots 9 and 11 of ditto, containing together 1A. 1R. 16P.	Ditto	5*s.* first year, 15*l.* second, 25*l.* third, 36*l.* 8*s.* for the rest of the term.
The Venerable Archdeacon Henry Law, Rector of Weston-super-Mare.	31st Aug. 1847	A close of land, known as the Lower West Field, part of Weston Glebe, containing 4A. 0R. 27P., and numbered 464 in the Tithe Commutation Map.	99 years.	For the first year 80*l.*, for the second 110*l.*, for the rest of term 150*l.*

Corporation.	Date.	Premises.	Term.	Reservation.
Rev. Robert Grant, Vicar of Bradford, Abbas-cum-Clifton, Alongbank, Dorset.	25th Dec. 1847	Four cottages and small piecesof land, together 2R. 8P.	99 years	13*l.* per annum.
Rev. Edward Hall, P.C. of Penkridge, Staffordshire.	20th March 1848	Piece of ground near Stafford Street, Walsall, containing 1,335 square yards.	Ditto	6*l.* 19*s.* per annum.
Ditto - -	Ditto -	Ditto, 1,146 square yards.	Ditto	5*l.* 19*s.* 4*d.* per annum.
Ditto - -	Ditto -	Ditto, 1,140 square yards.	Ditto	5*l.* 18*s.* 9*d.* per annum.
Ditto - -	Ditto -	Ditto, 525 square yards	Ditto	3*l.* 5*s.* 6*d.* per annum.
Ditto - -	Ditto -	Ditto, 700 square yards	Ditto	4*l.* 7*s.* 6*d.* per annum.
Ditto - -	Ditto -	Ditto, 1,125 square yards.	Ditto	7*l.* 13*s.* per annum.
Rev. W. J. Austin, Rector of Allhallows, Lombard Street.	8th June 1848	The Landbourn Coffee House in Bell Alley, Lombard Street.	40 years	80*l.* per annum.
Rev. E. T. Champnes, Vicar of Upton-cum-Chalvey, Bucks.	21st June 1848	Piece of glebe land in the parish of Upton-cum-Chalvey, containing about three acres.	96 years from Michaelmas 1847	31*l.* for the first year, 38*l.* for the second, 45*l.* for every other.
Rev. P. S. Dodd, Rector of Penshurst, Kent.	6th June 1848	Piece of glebe land, known as Culver Lane Field, containing 3A. 3R. 21P.	99 years	19*l.* 8*s.* per annum.
Rev. Thomas Naylor, Vicar of St. Peter-at-Arches, Lincoln.	17th Aug. 1848	Piece of land belonging to the rectory, but within the parish of St. Swithin, Lincoln, containing 780 square yards.	Ditto	18*l.* per annum.
Rev. G. M. Yorke, Rector of St. Philip's, Birmingham.	16th March 1849	Piece of land in Birmingham, containing 3R. 35P.	Ditto	50*l.* per annum.
Ditto - -	Ditto -	Ditto, containing 3R. 18P.	Ditto	40*l.* per annum.
Ditto - -	Ditto -	Ditto, containing 1A. 1R. 11P.	Ditto	70*l.* per annum.
Ditto - -	Ditto -	Ditto, containing 1A. 0R. 12P.	Ditto	60*l.* per annum.
Ditto - -	Ditto -	Ditto, containing 26P. -	Ditto	25*l.* per annum.

I would take the liberty of stating here my impression, that the Act would have been more extensively used if its provisions were better understood than I think they are. The bill as originally drawn had reference, I believe, to building leases only, and was afterwards extended so as to include mines; as the Act now is, some of the provisions apply to mining leases only, some to building leases only, and some to both; and it is very difficult for a person not well versed in the subject to ascertain the full extent of the advantages which the Act offers. It would materially simplify, and, I believe, greatly increase the operations, if each of the questions, which are as distinct from each other as they can well be, were made the subject of a separate Act. Some amendments which practical experience has suggested might at the same time be introduced.

3018. Is the surplus beyond the given amounts in proportion to population to be taken by the Commissioners into their fund for general purposes?—Yes; it is applicable to "the common fund," subject to the consideration of local wants and circumstances.

3019. Has this been the practice in these cases that have passed under your hand?—No such case has yet occurred.

3020. Would there be a power, supposing the patron of one of these livings desired to found a new church in the same parish, of getting the surplus transferred to the new church?—Yes; indeed before carrying the money over to the common fund "the wants "and circumstances of the place" must be considered. We have found that power to facilitate arrangements, especially with private patrons. With regard to mining leases, for instance, we are obliged, as I have stated, to take a portion of the "improved value," not being less than half nor more than three quarters, and in some cases we have agreed—

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the leases, however, are not yet executed—to take three quarters. The whole is to be capitalized for the permanent benefit of the parish, or of any district constituted or to be constituted therein.

3021. Having reference to the like demands in the district in which the property is derived?—Yes. In these cases it would have been manifestly unjust to have taken anything from the parish, and indeed the patrons would not have consented.

3022. By what authority can you supersede the claims of the general fund?—The Cathedral Act, 3d and 4th Victoria, chapter 113. section 67., provides, that certain monies and revenues vested in the Commissioners shall be carried over to a "common fund," and that out of it additional provision shall be made for the cure of souls in such manner as shall be deemed most conducive to the efficiency of the Established Church, with a proviso in favour of places in which certain of such revenues arise. The 14th section of the Leasing Act, which requires that a portion of the "improved value" under mining leases should be paid to the Commissioners, declares that it shall be subject to the provisions relating to monies payable to them, or, in other words, appropriate it to this common fund; and the 13th section of the same Act distinctly recognizes the local claim on the portion to be paid to the Commissioners; so that there is on the whole no doubt that the arrangements to which I have alluded are within both the letter and the spirit of both Acts; and it is perhaps to be regretted that they are not in terms set out in the Act, for I cannot but think that if they had been, the great advantages of the Act would have been more generally appreciated.

3023. Could you, under any circumstances, create a secondary living to any amount?—The only limitation as to amount is that contained in the 13th section; but the Commissioners consent being necessary in all cases, they of course would see that the arrangements in this respect were proper.

3024. It takes a long time to augment a living from the proceeds?—Yes; the proceeds must be very large to produce a capital, the income from which would raise the mother church, and perhaps one or two daughter churches, to unreasonable amounts.

3025. Does it not depend on how near to the limit the living might already be?—Yes, there is a living, the incumbent of which has made a proposal to us for a lease of coal under the glebe. The income of the living is already large, and we have arranged that we are after a time to have the whole of the proceeds of the mines for the augmentation of new churches within the parish, of which there are several, each having a large population. Under the 14th section we are at once to take three fourths of the proceeds, and under the 13th section, we are, on the next avoidance of the living, to take the remainder, the whole of which will be appropriated towards making additional provision for the cure of souls within the parish.

3026. In such a case who would have the patronage of the new livings?—That might depend on circumstances; the patron of the mother church would have a strong claim, and in all probability would not agree to the lease unless he was satisfied on that point.

3027. Would it be funded?—Yes, it would be paid over to the Commissioners, and, I conceive, funded.

3028. And the income only will be applied to the parish?—The Commissioners might perhaps apply part of the capital towards providing parsonage houses, and the remainder to the permanent augmentation of income.

Friday, 8th June 1849.

H. A. Aglionby, Esq., M.P.

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HENRY A. AGLIONBY, Esquire, M.P., examined.

3029. ARE you a leaseholder under the Church in the county of Cumberland?—I am, under the Dean and Chapter of Carlisle.

3030. Are you desirous of stating some circumstances to the Commissioners connected with that property?—I have had some experience in my own person, and know a good deal of that part of the county.

3031. Will you state what occurs to you upon that subject?—I would state that I have resided in Cumberland during the greatest part of my life, and since the year 1797 or thereabout, when I acquired it by will, I have been in possession of some property near Carlisle under the dean and chapter to the amount of about 500*l.* or 600*l.* a year; I have, since then, about fourteen or fifteen years ago, increased it by purchase; I resided in the house which is part of the leasehold property; it was at first a good farm-house, until I altered it; it was formerly called Newbigin Grange, and is so named in the leases; latterly it has been called Newbigin Hall. I resided there until about ten or twelve years ago, when the death of my cousin vesting the property at Nunnery near Penrith in me, I was obliged to leave Newbigin, which had been my favourite home, and go to Nunnery.

3032. Under what tenure have you held this property?—Leases for years. I can only speak to land and to property held under twenty-one years leases, renewable every seven upon the payment of a year and a half's improved value. I have no personal knowledge either for leases for lives or of the bishop's leases, except only general impressions.

3033. Have

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3033. Have you in the last ten or twelve years expended a good deal of money in improving Newbigin?—I have. I supposed that that was a question that would be put to me. I have gone over it as nearly as I could without having all my papers before me, and I have endeavoured to ascertain what I have done. My evidence upon this point will only go to this effect, to show that in my own person I never doubted in the slightest degree the continuance of the renewal upon the accustomed terms. I may speak more generally, but from pretty considerable knowledge, of other parties; we never supposed it possible that the lease should be run out, or the terms of renewal varied, and therefore, with the exception of calculating that we should have to pay a fine every seven years, and that the fine would be assessed upon the improved value which would be a tax upon our capital laid out upon the property in the interim, we have almost invariably treated it as a freehold property. I will, with your permission, read the statement I have prepared: "About twenty-five years "ago I bought two fields with farm-buildings, of the same tenure, leasehold, twenty-one "years renewable every seven on payment of a fine of one and a half year's value; the "object was to me one of very great convenience; at the time I resided at the place, I "had great delight in farming and improving; it was the greatest pleasure I had; I was "not in Parliament at the time, and it was my principal occupation. The two fields came "up nearly in front of the house, and within 200 or 300 yards; the farm-buildings laid "a little on one side, but interrupted the view so that I could not make it pleasing to "myself without levelling a great portion of them. I bought these premises, being valued "by the chapter, according to the fine which they assessed at that time, at about 30*l.* per "annum; I considered it a moderate fine; it was worth perhaps about 35*l.* a year to let, "and I gave 1,500*l.*, being above forty years purchase."

3034. Was that the sum you gave to the lessee?—I gave it to the lessee; the practice with the Dean and Chapter of Carlisle being that any person may assign, but they apply to the attorney for the chapter, and there is always given, as a matter of course, what they call a licence to assign, for which is paid the sum of three guineas. I think Mr. Isaac Lothian, the former tenant, who sold the property to me, applied for the licence, and he did assign to me.

3035. Was not that a fancy price, even if it had been freehold?—Yes, under any circumstances that would have been a fancy price; and to show the confidence I had in this tenure, I did not even inquire, and I can now give you no statement of how many years the lease had to run. I could not tell you whether one, two, three, or four years of the twenty-one years lease had expired. I bought it exactly the same as I would have done if it had been freehold, for the purpose of making the place complete, and therefore I gave a fancy price.

3036. Would the course be that upon your next renewal this would be put into your lease, or do you still have two leases?—It was not added to the lease of Newbigin Grange; it is added to another property, which I purchased subsequently; owing, I imagine, to some arrangement of the dean and chapter, because the old lease under which the Newbigin property held is called "One Moiety of Newbigin Grange;" this other property, which I bought of Isaac Lothian, is held under another lease renewable at a different period from the Newbigin lease, and it is now joined in one lease with the property I bought at a place called How Gill of a person of the name of Wilson. Why that is I do not know.

3037. Do you not think that the probability is, that it was because they expire at the same time?—Those two expired at the same time, and the Newbigin lease expired a year afterwards; I renewed the How Gill lease last year, and I renewed the Newbigin lease on the 23d of this month, June.

3038. In any improvements which you made upon that property did you make them with the same feeling of security that you would upon freehold?—I most assuredly did; and I may probably cause some surprise when I tell you, that having bought at what might be considered an extravagant price, I immediately set to work pulling down the buildings, rebuilding them again in another position, levelling fences, building sunken walls, so as to make what used to be called in landscape gardening ha-ha fences; and I may say, from being a mere farm place, I, by the expenditure, I should think, of from not less than 3,000*l.* to 4,000*l.*, have made it for its size as pretty a place as one would wish to see, although it is small.

3039. May not the value of all those improvements be taken against you at the next renewal?—I cannot say that they either have been or will; it would be very unjust to take them against me. I have no reason to complain of the dean and chapter upon that score; they have charged something additional, but nearly in proportion to the amount of money which I have laid out. I suspect, but have not the means of knowledge, that as I have laid out a great deal in draining and in agricultural improvements, they have assessed the fine upon the land according to its increased value, but have not charged anything like to the extent of the money laid out in general improvements. I can mention as one instance, that having laid out above 1,500*l.* upon the ornamental and substantial repair of the house, either the first or second renewal afterwards, they did charge the value of the house as a mansion, having formerly considered it as a farm-house, and on my remonstrating with them they took off the additional fine, but whether they have put it on since or not I have no means of knowing.

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3040. Is that because you do not know the component parts of their charge?—Yes; I do not know the component parts. At that time I did happen to have it stated to me, and upon my remonstrating they did take it off.

3041. At present they arbitrarily put on a sum, and you agree to it or disagree to it as you please, without their giving you the means of analysing the elements of the charge?—They have once given me the means of analysing it, but generally a gross value is stated for each farm. I have occasionally remonstrated upon the amount of the fine, especially in one case, where it was rather more than the rack rent which I got for the farm, and their answer was, that they could not help that; I might perhaps have leased the farm unadvisedly or imprudently; but they employed a very experienced valuer; and they meant by that, it was not worth my while contesting the point with them, and I yielded.

3042. In fact, as to money laid out upon ornamental improvement, would that ever bring to the person who so laid out the money interest, if he let the property again at all equivato his outlay?—Nothing equivalent to it; though I take for granted that the improvements which I have made, and which please the eye very much, would, if a gentleman were to take the place, increase the rent.

3043. But not in the proportion?—No, nothing near it.

3044. Nobody lets a country house in the proportion of the outlay made upon it?—No; one pays for the personal pleasure one has in the enjoyment of viewing one's own improvements.

3045. Do you mean that the lessee would only be entitled to consider the increased letable value conferred by the improvements, and not the actual amount laid out?—I should think that to assess the fine on anything beyond the letable value would be very unreasonable. I have no reason to make such complaint of the dean and chapter. I may now mention the next property I bought, which was one lying on the other side of the river, but still contiguous to one of my farms; it was a property I rather liked to have, being at that time fond of shooting, and wishing the property to lie together; it was not, however, a matter of so much importance as the other. This was put up to public auction; I did not appear myself, but sent a person, who was not known to be connected with me, to bid for it. I got it at what was thought a fair price, the preceding bidder being a gentleman of Newcastle, who merely wanted it for investment. I was told afterwards, if it had been known I was bidding, I should not have got it so cheap. I will tell you what I gave for it. It was a place called How Gill, sixty-one acres of leasehold, and twelve acres of what is called "customary freehold;" that circumstance prevents my giving the exact amount, and number of years purchase of the leasehold, because I cannot separate it accurately, but I can tell the general result. It was about twenty years ago. There again, I cannot state the exact number of years that the lease had to run, but according to my recollection it was between eighteen and nineteen years; the property was then valued by the chapter at about 50*l.* or 55*l.* a year for the fine, the price I gave was, I think, 1,650*l.* for the whole farm. At that time I calculated that I gave from twenty-two to twenty-two and a half years purchase for the leasehold.

3046. Would the dean and chapter's fine be calculated for the leasehold only?—Yes; I reckoned I gave from twenty-two to twenty-two and a half years value for the leasehold only; that was the rate estimated by my solicitor and myself.

3047. What would have been the value of freehold land in the same neighbourhood?—I have bought lands varying from twenty-four and a half to twenty-eight years purchase. I believe I have never given more.

3048. How much of the lease had to run in the case last-mentioned?—I cannot tell exactly. I have an impression between eighteen and nineteen years; but there again, I really took so little note of the number of years that it had to run, that probably I should have given precisely the same if it had been seventeen or sixteen years, because with us, neither in my own practice nor that of any of my friends, did I ever know any other calculation than this; "how soon shall we have pay another fine?" We never dreamt of going to an actuary or accountant to see whether the real value in perpetuity was diminished by the lease having a year more or less to run, but if I had to pay a fine in four years, I should say, "This is coming rather sharp on me, and I will not give so much as if the fine would "take place in seven years;" further than that I never calculated. I cannot tell exactly how many years it had to run. The next piece which I bought was a very small piece, scarcely worth mentioning; it was only a little corner which laid between me and the river Petwell. I do not know how many years it had to run, it was only of 20*l.* value, and it might give about twenty-two or twenty-three years purchase. A strong instance to show the confidence of parties in the tenure is this (and being in the year 1847, near the present day, I can give the facts accurately), the sale was to a neighbour of mine of a very small piece of land for the accommodation; it was made by myself, through the intervention of a gentleman at Carlisle, his solicitor, who is also agent of the dean and chapter. It was a small piece, not worth more than 15*s.* or 16*s.* a year, a little corner; my neighbour wanted to lay it to a field of his, and he gave me upwards of fifty years purchase for it. I have been asked what was the usual price given for freehold; I will state one or two cases in which I myself have bought. I purchased a small accommodation property lying near a farm of my own; it was only twenty acres; it laid adjoining my farm, between myself and the highway;

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it was at a place called Cumwhinton; and I gave what I considered an extravagant price for it, and which I would not have given but for that single circumstance. I gave about twenty years purchase; that was in 1826; it was a piece worth about 14*l.* or 15*l.* a year, and I gave 400*l.* for it. I bought another little accommodation piece to make out the same farm, which was previously a small one; I thought I increased the value of the property by adding these pieces when they came into the market, and I bought this last piece as an accommodation piece also; and this I bought in 1835, four acres and a half, value 4*l.* 2*s.* 6*d.* a year, and I gave about twenty-eight years purchase. I bought, in the year 1823 or thereabouts, a farm at a place called Pascoe Dyke, about seventy-eight acres according to the Tithe Commissioners plan; I gave 1,800*l.* for it, which at the time was reckoned as twenty-five years purchase; it was considered a good bargain. I have got full four per cent. for the money. A few years afterwards, in 1826, I bought another small farm adjoining Pascoe Dyke, twenty-two acres, I did not buy this as accommodation, although it did adjoin it; that at the time was reckoned to pay four and a half per cent. I obtained it for less than twenty-five years purchase. The value of it was 600*l.* I can give you a case, not of my own, but one that I have heard of; it comes the nearest up to this time. A neighbour of mine at Nunnery has just bought an estate which I should have liked to have had myself; he had rented it for nearly twenty years at 42*l.* a year, and he gave 1,000*l.* for it; I believe that would be valued about twenty-four years purchase. The circumstances I do not particularly know, except that the piece of property is close to me. I do not know whether hearsay evidence is of the slightest importance, but I have just been informed that a leasehold property called Willfleet, near Carlisle, held under the same terms as my own property, was recently sold for twenty-eight years purchase; the circumstances I do not know; it might be that it was an accommodation price. The result of all this is really only to show that I myself, and I believe others also, have had the most thorough and entire confidence in the impossibility of these leases renewable on a fine of a year and a half's value every seven years being run out, and I beg to express my continued conviction that such a thing as running them out is impossible.

3049. Have you had any instances of running out in the North?—No; I believe there has never been an instance during the whole time that the property has been so leased in my part of Cumberland, which is for nearly 300 years. I have heard of one case in which the lessee had refused to renew on the expiration of the first seven years, because the parties differed as to the value, but when it came down to the next seven years the dean and chapter then renewed on the same terms which the lessee had offered before.

3050. Have not your observations reference to land rather that to tithe rent-charges?—I know nothing of tithe rent-charges except this, that up to the last year the renewal has been, I believe, uniform during the time the tithes were leased. The Commutation Act, as the Commissioners are aware, made an alteration in the position of that kind of property. Last year, and from what cause I know not, except so far as appears by the notice which was given, the dean and chapter raised their fines from one and a half years to one and three quarters years.

The notice referred to is as follows:

"Dean and Chapter's Registers Office, Carlisle,
16th September 1846.

"Dear Sir,

"We are directed by the Dean and Chapter of Carlisle to apprize you that it is their "intention from this time forth to raise their fines on renewals under the Commutation "Act from one year and a half's value to one year and three quarters. They feel satisfied "that their lessees cannot reasonably object to this advance, when it is considered how low "is the present rate of interest for money invested in the funds, and that there is scarcely "any chapter or collegiate body which has not for some years past raised their fines to the "amount at which the Chapter of Carlisle now propose to fix theirs, whilst several take "fines of two years and some even two years and a half's value. We annex the amount "of the fine which will be due on the renewal of your lease of a moiety of the Meal "Garner on the 23d day of November next, and will thank you to say as early as you "possibly can whether you intend to renew.

"Yours, &c.
(Signed) "S. and J. Saul."

This made a very great commotion in the county, there were public meetings upon the subject, and a violent controversy between the lessees and the dean and chapter, and it resulted in very strong resolutions being put, and a large majority in number of the lessees of tithes refusing to renew; and they are now in this position, that one or two of the large owners of tithes, after having attended the meeting and becoming parties to it, succumbed, and very much to the dissatisfaction of persons in the same position have consented to renew upon a year and three quarters.

3051. Is it the fact that there have been some renewals at a year and three quarters?—I have been so told, but in the case of land there has never been an instance of that variation.

3052. Do you not mean in modern times?—I believe at no time.

3053. You stated that you had great confidence, first of all, that the leases would not be run out;—I am not going to put any question about that;—secondly, that you had very great

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great confidence, also, that the terms should not vary; and you have stated yourself that you have never heard of such a variation?—Yes, I have so stated.

3054. Are you aware that in other parts of England the terms are very different, and that instead of a year and a half the lessees paid a fine of two years?—I am aware of that.

3055. Are you aware that the dean and chapter had a legal right at any time to approximate towards the terms given in other parts of England?—I am not aware of that.

3056. You are not aware that that is an acknowledged right?—I am not.

3057. Are you aware that in the course of the last century that no less than three times *they* advanced their rate of fineage for the purpose of approximating to the fines in other parts of England; taking one year first, then one year and a quarter, and then one year and a half; something more than half a century intervening between the different amounts of fineage?—I do not know what is meant by the question *they*. Is it meant by that the Dean and Chapter of Carlisle?

3058. Yes.—I never heard of it.

3059. Be good enough to read that paper?

A paper is handed to the witness, and the following passage read:

"4th October 1704. At a chapter then held (Mr. Dean and all the canons present.) "It is this day unanimously ordered and decreed by the dean and chapter, that for the "future no leasehold of the Church shall upon the expiration of seven years be renewed "under one full year's value, the reserved rent being deducted, and if any lessees suffer "their leases to run beyond seven years, their fines shall be always strictly proportioned "to the time elapsed beyond the said term of seven years, according to the table of "valuation of years on leases, to be annexed to this present order and decree, excepting "only such cases as may evidently deserve the compassion and charity of the dean and "chapter.

"Certified 24th May 1849.
"(Signed) L. Hinds, Dean of Carlisle."

Mr. Aglionby.—I never heard of such a case, and I never heard of any compassion that the dean and chapter had shown to the lessees, and I never heard that the sums had ever been less than one year and a half; this is the first knowledge I have of it.

The following paper was then read:

"Cathedral Church of Carlisle, 23d June 1747.

"At this chapter it was agreed, that for the future no less sum be taken for the renewal "of any lease in which seven years are elapsed than one year and a quarter's full value "after the chief rent deducted, agreeable to the practice of other churches, colleges, and "ecclesiastical bodies, and so in proportion for any number of years more than seven "that shall be elapsed."

Mr. Aglionby.—I never heard of that; I have already said that I never heard of a less fine than one year and a half.

The following paper was then read.

"23d June 1774.

"At this chapter it was agreed, that for the future a sum equal to one year and a half's "full value be taken for the renewal of seven years lapsed in a lease of twenty-one years; "and the sum of three quarters of a year full value for the renewal of fourteen years lapsed "in a lease of forty years, and so in proportion, agreeably to the practice of other churches, "colleges, and ecclesiastical bodies."

Mr. Aglionby.—I know nothing of the dean and chapter's books; these orders I know nothing about. The fact, so far as it appears from this document, is, that the terms have been varied. I only say that I never heard of it; the last alteration appears to have been seventy-five years ago, and I have not the means of recollecting or of knowing what was done at that distant period. I can only repeat, that the thorough belief among all the people that I ever discoursed with in Cumberland confirmed, as I thought, by the evidence we had taken in Committees of the House of Commons, was, that there never had been any variation; and I certainly had thought that that was so. I only know that if such terms were proposed, that we should fight for it, of course I mean through legislative means; this no doubt shows that they have exercised what they call the right of alteration. I have been told indeed, that there have been decisions upon the subject. I never have met with one; I do not know where it is to be found; I myself deny the right to alter the terms. Had I seen that paper before, I should not have had so strong an opinion upon the subject, because my positive denial of their right to alter the terms was founded upon the belief of constant and uniform practice, and therefore my opinion upon that subject is pro tanto lessened; but I still say that I doubt very much whether a court of justice, or a court of equity, would not hold the parties bound by those terms, which they have themselves given for above seventy years past. Finding that the terms before that period were different, lessens the confidence felt when I believed it to be uniform. At the same time, without speaking of what would be the decision of a court of law or a court of equity, I still say, in spite of this information now given, that seventy years uniform practice, which I believe

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cannot be denied at all, has given a marketable value to the commodity which has induced persons to purchase it. By the custom which has been invariable, during that period, at all events, acted upon by the lessors themselves, the lessors ought reasonably to be bound, so far at least as to take it into consideration, and to give compensation accordingly.

3060. As you say you do not yourself recollect seventy-five years ago, but your family is a very old family, and I have no doubt that your immediate predecessors must have lived as tenants of the Church throughout the time referred to in this paper?—My family has been settled in Cumberland since the time they came over from Normandy with William the Conqueror, but the property they have held is in another part of the county. The leasehold at Newbigin was purchased by the husband of a great aunt of mine somewhere about the year 1780; but I cannot state that distinctly. My great aunt died in the year 1797, when the property came to me, and she held it under the will of her husband who had died five or six years before, but how long he had held it I have no means of telling.

3061. Have you not plenty of links in your own family by which your knowledge as to this matter might be carried back?—No; I have not.

3062. According to your statement did not your family buy in 1780, six years after the document of 1774?—Excuse me, it was not my family that bought, it was a gentleman living in Scotland, who married a great aunt of mine, and took her from Cumberland to Scotland. I would further say, that the Church ought morally and equitably to continue that system to which they have given confidence, and I believe myself, as far as you can form a speculative opinion, that they would be bound to do it, upon the grounds that I cannot imagine that they originally gave these leases without a consideration. For the lapse of time we can produce no documents to show either that consideration was given or what the consideration was, but inasmuch as the persons who argue in favour of the lessors on these points say, that the lessees have got a too beneficial lease, I have a right to believe, that when they originally got that lease that they paid something for it, that is in Scotland called a grassum, in England it would be called a premium; the lessors have already had the advantage of the payment, and now they are seeking to gain an advantage to which they are not entitled. I am much confirmed in that by a piece of evidence I accidently met with, and which, I believe, this Commission has had before them. I have not the document by me, but I know pretty well the facts from inquiry, that many years ago, but within this century, a piece of waste land or common was enclosed in the county of Cumberland, near Carlisle. The dean and chapter obtained under the inclosure three distinct allotments of that common. What did they do? They did not choose—and I apprehend deans and chapters of old would be equally unwilling to lay out their money when they had only a short and fluctuating interest in it,—they did not choose to lay out money in bringing waste land into cultivation at a great expense, and they immediately advertised the sale of a beneficial lease of this property which so came to them; the beneficial lease was sold at public auction; and what has been done on that lease? it has been treated the same as every other property they have; that lease of twenty-one years has been renewed every seven, on a fine of a year and a half's improved value.

3063. Is that stated in the lease?—I do not say that; but that which was called a beneficial lease without the terms being specified in the advertisement has been treated on the same terms as the rest of their property; and as a fact the lease has been renewed every seven years, being a twenty-one years lease, and there had always been charged upon the renewal a fine of a year and a half's improved value.

3064. Has a farm-house been built upon that property?—I have been told so. You find that the dean and chapter are unable or unwilling to lay out money upon their own land, inducing people to purchase from them, and to take, subject to these terms. Therefore, I think it not unreasonable or unfair to suppose that formerly something of the same sort may have occurred, that the land, not being improveable by the chapter itself, from its peculiar circumstances, has been available by being turned over to the lessee; and I think it would be hard upon a lessee who had laid out money in bringing it to its present value now to be told, "You have brought this to its present marketable value, and we "now intend to take the benefit of the rack-rent, and we shall run out your lease." Another matter is, although we are told we have very beneficial leases,—an actuary, I believe, would tell me, I have about nine per cent. upon the tables, and, although that may be a beneficial lease, I do not know that it is anything very outrageous. I have to bear the risk of loss of rent; I have to wait until my tenants can pay; I have to run the risk of farmers running away; I have to find a large sum of money to pay the fine; I have to do all the repairs, for the dean and chapter do no repairs; I have to make all improvements, if any are required upon the farm; I have to buy tiles; I have to make the drainage, the dean and chapter not giving one farthing towards it; indeed, I perform all the ordinary duties of an individual lay landlord between himself and the tenant, receiving no allowance from the chapter at all, with one single exception, where, after having laid out 1,500*l.* on the house, I did apply to them, and urged very strongly that they should give me something, and I was allowed 20*l.* for the main timbers of the house. I do not complain of these things; it is the custom; and I have no complaint to make of either them or their officers.

3065. Are the terms on which these leases are granted such as that they do appear to you to be unaccountable or unreasonable, unless you suppose some foregift or grassum?—

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It is utterly impossible for me to tell that; but they do not appear to me to be very unreasonable; if you come to fractions, whether it is eight or nine per cent., I am not competent to speak to it; what I have mentioned is rather derivable from the general feeling that when the term has been granted there has been some understanding between the lessor and the lessee.

3066. Are you aware whether there is in the county of Cumberland, or in any other part of England, any documentary evidence of such a foregift or grassum being given in the original connexion between these parties?—I have mentioned one instance in which the premium was given. I do not know the amount of it in money; a portion, no doubt, was the improvement of the property; but I never saw any documentary evidence upon the subject, with that exception.

3067. Have not these leases now been given for 200 or 300 years?—Yes, I suppose so.

3068. Do you not think it is probable that any interest that the lessees had in the improvements made by them has been exhausted in that time, seeing that it is not usual to allow a lessee 200 or 300 years for interest and improvements?—The improvements have been progressive and continual. I have just mentioned, that I have laid out 3,000*l.* upon my own leasehold in improving it, and, although a great deal was for ornamental and fancy improvement, yet a considerable sum has been for durable and permanent improvement, and which I would not have done if I had not believed myself sure of the lease.

3069. Distinguish between two things, being sure of your lease, and being sure of your lease being renewed upon the exact terms they have hitherto paid?—I mean sure of the lease renewed in perpetuity upon the same terms in consequence of which I bought or my ancestors held.

3070. Or your ancestors bought or held, do you not mean?—Yes.

3071. They are not the same, are they?—I do not admit that. I think that they are.

3072. What becomes of the original lease?—When it is surrendered a new one is given. I never saw any other lease excepting those which I myself had the opportunity of surrendering. I may be allowed to say that although I have a pecuniary interest, and am anxious for the settlement of the question as a leaseholder, I am nevertheless desirous it should be done upon fair equitable terms, for I am also attached to the Church of England. I should be very sorry to see anything done which would lessen the influence of the Church in the minds of the people. I am anxious on both grounds that a settlement of this question should be made. I have a very deep anxiety upon the subject, from the fear, which I believe is felt by many others, that if this property were run out, and were to come into the hands of the Church, it would not be very long allowed to remain there. The feeling would be so strong that such an extent of visible landed property should not be in the hands of an ecclesiastical body in mortmain. I have a very strong belief that they would be divested of it before many years passed over. I am therefore much more anxious that a feeling should be kept up which may prevent such an event than to see that take place.

3073. Have you any suggestion to make as a means of improving the relation between the parties?—I have my own opinion about it; perhaps as Mr. Cayley is more prepared with figures, and has more knowledge upon that subject, you had better take the calculations from him, and allow me generally to give my feeling. I have always based my notion of an arrangement upon the fact that the church, using the term *Church* in the sense of lessors, have given a value, I mean what is called a marketable value, to this class of property. The Commissioners are well aware that there was a paper laid upon the table of the House of Commons, when a bill was first presented to that branch of the Legislature upon the subject of vesting the property of certain lapsed canonries in the present Ecclesiastical Commissioners, and there the express term "marketable value" is used. I have always regretted that at that time the lessees did not pay, and that the public did not pay, attention to the question, and prevent the establishment of that Commission at all. I see that the property vested in that Commission will be subject to very great risk and danger, the same that I contemplate if this property comes into the hands of the Church; and I think that that Commission is not living in the affections of the people; and if this danger should arise, it is one that I should be very sorry for; I use the word "marketable" value as it is used there, and I have always insisted, as a *sine quâ non*, upon this being allowed in any arrangement with the lessors. They themselves, having given a marketable value to the property held under their leases, they are bound by that value, although it is an artificial one, which they have been themselves the cause of being assigned to it, and anything less than that "marketable value" given to the lessees would be depriving them of that to which they have a right; I have also always felt, that there could be no general rule laid down as applicable to the whole of the country, and the more so since my attention has been called in the course of this examination, by a question addressed to me, to the fact that in different parts of the country, as I was aware of before, there were different rules adopted by deans and chapters. It is quite in accordance with my feeling that the marketable value is to be the guide, when I follow it up by saying that you can have no general rule, but that you must send down Commissioners into each district or diocese where the same custom has prevailed, and give the lessee the benefit of that which has been the marketable

marketable value in the district of country where the leases are held under the same custom, because, holding the marketable value to be binding upon the Church, they would of course only be bound by that which they have caused to be the marketable value in the respective districts.

3074. Admitting that principle, I want to know exactly the length to which you are carrying your reasoning. Now you say at present you have a moral right to renew; you probably would not say that you have any confidence; you have a legal right. Supposing this moral right were converted into a legal right, are you prepared to say, that you would give nothing for that conversion?—I am not quite prepared to say that; I will only say that I ought not. I should be prepared to give something, because, unless I gave it, I should see no result, except in constant collision with the church, and, either a very expensive mode of recovering my rights, even if I could get them, or at all events, great trouble, great anxiety, and constant squabbling, which I think would be most undesirable, as between a member of the Church and the Church itself.

3075. As you go so far as to say that although you think you ought not to give anything, yet you think that you would give something for that, the only question to settle for this Commission would be, what would you give, is not that so?—Quite.

3076. Within a short time your lease must be renewed, and is now renewable?—Yes, the 23d of June.

3077. Has the dean and chapter assessed the fine?—They have.

3078. Does it vary from that of the last fine upon the previous seven years?—Not at all, in the principle of assessment.

3079. Is it the same fine?—Yes, the same.

3080. Has there been no variation in the value?—There is a trifling variation in the amount; I have a letter from the collector of the dean and chapter, although I have it not by me now, giving me notice, in the usual form, that if I wished to renew, the fine was assessed, that the lease would be renewable, and that the old lease must be surrendered, on the twenty-third of this month; the particulars of the fine are not given, only the result; they give me first the full value on what they call "the annual value of one moiety of "Newbigin Grange," and then they deduct the reserved rents, which are little more than nominal; having deducted them, they then add half a year to that, making the whole fine assessed which I must pay, and adding ten guineas which is the usual fee which they call "less stamps, &c."

3081. Have you accepted those terms?—I have accepted them, and wrote to ask them whether they would give me a short time to pay the fine, and they behaved with their usual kindness to me; they said they could not give me quite so long as I asked, and they would see whether a short time could be given. It is one of the inconveniences we have that we spend all our money, and then when the fine comes on we have to look out for it.

3082. Should you conceive any commutation desirable to be made in the shape of a rent-charge as substituted for a fine?—I have always thought that the best plan; I have thought it would be more convenient to the Church, because being a fluctuating body they would then have a certain income instead of one which chance may make very small to those leaving the ecclesiastical body shortly before the renewal, and very large to those coming in just after it. I should myself prefer a rent-charge, but I am told there are objections. I never could see them. I would prefer having a fair rent-charge to the present system.

3083. Is not this a case that you must either put by money to prepare for the fine, or (not being very able upon every occasion) to make the interest which would accumulate so as to be equivalent to the fine at the end of seven years, or you must furnish it at a time out of your yearly income, or you must insure, paying the profits of insurance?—The present plan might not be inconvenient and might not embarrass two classes of men, those who were very prudent and did put by money, or those who are wealthy from funded property and other sources, and therefore do not care about it; yet there is another class to whom it is a very great inconvenience, that is the ordinary country gentlemen of ordinary means living on his estate, who unfortunately does not lay by money, and then he is always embarrassed when he has to pay a large amount at once; I should think to all that class, the payment of a rent-charge would be a very great improvement.

3084. Up to what extent do you imagine the rent-charge could go with safety? The question does not refer to the terms of the bargain; but supposing you were to substitute a rent-charge for the fine at each renewal, what proportion of an estate do you think it might be allowed to run to with convenience; half?—Oh no, do not put such a question.

3085. Ultimately?—Oh no; not as long as the estate exists. I have no objection to say what my own opinion is. I have already stated that I think we are entitled to the marketable value. Between the marketable value of leaseholds and the marketable value of freeholds in the same neighbourhood there is a difference, varying according to the locality. Taking a number of years, you should ascertain in the different districts how much that difference was; that should be ascertained by local commissioners. I do not believe the difference in Cumberland would be more than five to five and a half or to six years; this must not be taken as a fact, but I believe it would be about that; however, there is a difference. How

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is that to be dealt with?—I admit I am willing to give something for the certainty of renewal instead of the moral expectation.

3086. Do you mean as security from increased fines on improvements?—Yes; that would be the main point, because I strongly object to anything in the character of re-valuation; I think the whole thing would go to pieces if you attempted that. What proportion of those five or six years should I wish to give? I shall be probably in the hands of this Commission by-and-by, but I should say only a proportion of it, and for this reason; my marketable value of the leasehold having been assigned to me, if I give the Church only the marketable value of the reversion, it might be thought too little, otherwise, I should say as certain, the marketable value of the reversion; then let the Church either buy the one or sell the other. I do not know what actuaries or insurance officers may do, but I am sure no gentleman in the country, no individual in the North of England, would give you anything for it. If I were to give the Church no more than the marketable value for what may be called the difference between leaseholds and reversion, that would not be fair to the Church, because it is a thing depreciated in the market, you would not get the fair value for it. I am willing to give some arbitrary sum, but I do not think it would be fair to give the Church as much as half of the difference between the marketable value of leasehold and freehold.

3087. Not half the difference?—Certainly not; and the reason I would not give the Church half the difference is, because the Church certainly has not now one half the interest in the whole property; you will find that from the calculations of the actuaries the interest of the Church is not more than a fourth or a fifth; I would give more than that for the sake of peace, but I would not give half, because it would not be reasonable. I believe the result in figures would be something of this sort; when I was asked before, if I would give half, that is fifty per cent., I said certainly not. The result of this would be, that you would have to keep up the present payment, calculated at an annual rent-charge in lieu of a septennial fine; what the Church would receive on this I am not quite sure; I believe from 19*l.* to 20*l.*; or 20*l.* 10*s.*, that is, if instead of paying 150*l.* in a lump sum you were to distribute it over the seven years. I am supposing the case of 150*l.*, or one and a half year's value, payable every seven years, and to distribute it in rent-charges over seven years equally; I have been told it would be somewhere about 19*l.* or 20*l.*; if you added to that, according to my notion, one half of, say, six years purchase, that would be 12*l.*, at four per cent., six years would be 600*l.*, one half 300*l.*, to be converted into a rent-charge; that would be 12*l.* a year, which would carry you up to little more than 30*l.* a year, instead of that which you get now, and that would be too much.

3088. By that do you give the Church half as much again?—Yes; and I think it is too much. I can say that I would infinitely prefer remaining as I am, with the confidence in the renewal, which has induced me all along for many years past to treat the property, both in purchase and in improvements upon it, exactly the same as freehold, rather than have even the amount of half as much again imposed upon me in the shape of a rent-charge, for the purpose of converting into a legal certainty that which I always deemed a certainty into that which the Church tells me is not a certainty.

3089. Do you speak with the same confidence of renewal upon the same number of years purchase when you find that three times in the last century there has been an alteration, and that in your own county?—I can only say that I was not aware of it. I have said before that I was not; and had I been aware of it it would not have altered my expectation of renewal, for I do not believe in these days that the dean and chapter dare vary the customary leases of land; besides this, it is only a question of degree; if they have a right to alter the terms, they have equally a right to refuse the renewal; and therefore I am as much perilled in the one case as the other.

3090. Are you aware that some deans and chapters have lately, within the last three or four years, altered the tenures considerably, that is to say, from a year and a half to two years?—Yes, I am; and deeply have I lamented it, for the sake of the Church. I believe that they are raising a storm against them, of which they will not see the end, except in a way that I shall lament deeply.

3091. Have you any further facts you wish to state with regard to Church property in Cumberland?—I am not aware that I could state any other facts; and I am very much afraid that what I have stated has been mere opinion than fact.

3092. Have you any further evidence that you wish to offer on the subject of Church property?—No, I have not, except I should state, that there is very strong feeling in the county of Cumberland, not only among the leaseholders, who are very numerous, and occupy a considerable portion of the county, but among all their friends, and all the friends of the Church, a great anxiety to have the question settled, and a strong determination, as far as they can, not to have settled upon terms which they would consider a great sacrifice of the fair interests of the lessees. There is one point to which I wish to call attention, with regard to actuaries, and to show the extraordinary difference of opinion that exists among them. I had occasion to sell for myself and the lessors some property to a railway company; the railway company would not negotiate with the chapter at all, and insisted upon its being carried on through me; therefore I had all the trouble and anxiety of making a settlement; I got, as one generally does from the railway people, a considerable

considerable sum of money, something beyond the ordinary market price, for this property. When I had settled with the railway company it became a question how the dean and chapter and myself should apportion the sums received, and it became a matter of dispute, they claiming a good deal, and I offering much less. I claimed my share of the value of the land, and an allowance for the trouble and anxiety I had had; the sum to be divided, as the value of the land, was 1,000*l.*, as stated in a case sent by the dean and chapter to Mr. Morgan,—if of any value, I will put in the case,—drawn by themselves, and, stating the facts, I sent the same case to Mr. Griffith Davis, who may be known to some of the Commissioners, not alleging anything about my notion of the certainty of renewal, but the same case that was laid before Mr. Morgan. Mr. Morgan, according to his views, exclusive of the respective certainty of renewal, gave to the lessors 570*l.* 6*s.* and to the lessee 429*l.* 14*s.* Mr. Griffith Davis, upon the same case, and without any further instruction, but taking what he called the moral expectation of renewal into consideration, which Mr. Morgan did not, gave me 791*l.* 2*s.* instead of 429*l.* 14*s.*, and he gave the lessors 208*l.* 18*s.* instead of the 570*l.* 6*s.*

3093. What did you ultimately agree upon in that case?—I cannot tell, for this reason, it was referred to two barristers. It was a complicated question, involving not merely the division of the purchase money mentioned in the case laid before the actuaries. I was not satisfied with their decision; they gave more to me than Mr. Morgan gave, but much less than Mr. Griffith Davis gave. Whether they split the difference I do not know, but they gave something between the two. These are the papers to which I have referred; and in these papers the purchase of the fee simple is supposed to be 1,000*l.*, and the calculation is made upon that sum. I must couple this with an explanation. In putting in these two cases, the one laid before Mr. Morgan, and his opinion attached to it, and the other laid before Mr. Davis, where the value of the land is given, I must state that it is not a mere marketable value for land in that neighbourhood, but it is what is called railway price.

The papers referred to by the Witness were handed in, and were as follow:

Quantity.	Annual Value.	Purchase of Fee Simple.	Unexpired Term of Lessee.	How many Years Purchase the Lessee's Interest is worth.
A. R. P.	£	£		
13 1 24	25	1,000	19 Years.	

" The above quantity of land has been sold to the Lancaster and Carlisle Railway Com-
" pany at the price above mentioned. The land is leasehold under the Dean and Chapter
" of Carlisle, demised originally for twenty-one years, and the lessee's unexpired term is
" nineteen years, as stated above. The dean and chapter do not covenant to renew
" their leases, and therefore it is optional in them to do so or not, as they think proper,
" but they usually do renew at the end of seven years on payment of one and a half year's
" value."

" Mr. Morgan will please to apportion the purchase money between the dean and
" chapter and their lessee, according to their respective interests in the land."

	£	s.	d.
" The dean and chapter should receive - -	570	6	0
" The lessee - - - - -	429	14	0
	£1,000	0	0

" Equitable Assurance Office,
" 28th September 1844."

" Arthur Morgan."

Quantity.	Annual Value.	Purchase of Fee Simple.	Unexpired Term of Lessee.	How many Years Purchase the Lessee's Interest is worth.
A. R. P.	£	£		
13 1 24	25	1,000	19 Years.	

" The above quantity of land has been sold to the Lancaster and Carlisle Railway Com-
" pany at the price above mentioned. The land is leasehold under the Dean and Chapter
" of Carlisle, demised originally for twenty-one years, and the lessee's unexpired term is
" nineteen years, as stated above. The dean and chapter do not covenant to renew their
" leases; and therefore it is optional in them to do so or not, as they think proper; but they
" usually do renew at the end of seven years on payment of one and a half year's value.

" Mr. Davis will please to apportion the purchase money between the dean and
" chapter and the lessee, according to their respective interests in the land."

H. A. Aglionby, Esq., M.P.
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" Reckoning the interest of money at two and a half per cent., which is the rate involved " in the above-mentioned purchase, and taking the usual custom of renewing the leases at " the end of every seven years, on payment of a fine equal to one and a half year's rent, as " giving the lessee an equitable right to the enjoyment of the property in perpetuity, sub- " ject to such septennial renewals, the first of which would, in the present case become " payable five years hence, I am of opinion, that the share of the above purchase money, " (1,000*l.*), which ought to be allotted to the lessee, is seven hundred and ninety-one pounds " 2*s.* or thereabouts. (£791. 2. 0.)

" Guardian Assurance Office, " GRIFFITH DAVIS."
" 23d September 1844."

[The examination of Mr. Cayley was proceeded with; on the conclusion of which Mr. Aglionby was further examined as follows.]

3094. Does your lease contain a clause for military service?—No, it does not; and I should state that none of the leases which I have had contain any such provision; but whether the leases between 1700 and during the time until the Scotch Rebellions were entirely put an end to contain covenants for military service I cannot possibly tell; but the Commission can obtain that information from the dean and chapter, and I hope that that information will be obtained, because, now that my attention has been called to it, it is very possible that the alteration made in the years 1764 and 1774 may have been made with reference to giving up some military service; on that I have no means of judging; my leases, certainly, do not contain any such clause. I do know that lords of the manors in Cumberland had military service and a great number of other feudal tenures preserved with their copyhold and customary tenants, and it is possible the Church may have had the same.

3095. Are your leases the old leases or new leases?—The old leases are invariably surrendered, and they give us what purports to be a copy of it. I have asked whether it was a literal copy, and the answer of the solicitor was, that it was a literal copy. With reference to another matter which has been just alluded to, though not distinctly put to me, I wish to give an answer; it was, whether the lessees had the power or any inclination to depreciate the land. When I adverted to my anxiety as a member of the Established Church, that the leases should not be run out, I alluded to one danger I foresaw; and now I state, that even if the property at the expiration of the leases be allowed to remain in the hands of ecclesiastical bodies, there would be very great danger of the land being depreciated. Under existing leases, without any covenant against waste, I can entertain no doubt that the property would be very materially damaged; and I am quite sure that there is less safety against property being damaged under a lease without covenants, than there would be under an ordinary lease from year to year, according to the custom of the country, *quacunque via data.* I am quite sure of this, that whatever the rights of the Church in strict law may be, you would find great difficulty in getting a jury to give the Church, under the feeling which would then be existing, any damages at all. At all events, you would have dreadful collision and exasperation between the two parties, which no friend of the Church would wish to see. I was asked about prospective improvements. I said that I deprecated very much any system of settlement which would make provision for re-valuation. It would materially damage the question, and would cause very great dissatisfaction. I think I might qualify this upon one point. I have never been able to say, if it was land not merely improvable for the general purposes of agriculture, but pure building ground to which large adventitious value would be given, not from the ordinary outlay of the lessee, but from various other circumstances, that there would not be such great advantage there as to require some additional payment. Allow me also to state that allusion has been made to the difference in the feelings of parties since the agitation of this question, which I should deem a very unfortunate circumstance, but I do not think that feeling exists in Cumberland. I myself, only two years ago, had an offer for a field which being cut off by a railway; which I was ready to part with. A gentleman, who resided at a distance, but who had property near, made me an offer for it; it had then only sixteen years to run; and he offered me about twenty years value. I declined the offer. I refused to take twenty or twenty-two years, and I have the land yet.

3096. Was that accommodation land?—No, it was a field; 1,000*l.* was what I wanted. The gentleman offered 800*l.*, and it was said he probably would increase his bid. It having only sixteen years to run made no difference in my opinion. I find an account in my books which I happen to have entered, showing the course of the dealings between the Dean and Chapter of Carlisle and myself in regard to the fines which have been assessed upon the same property of Newbigin since the year 1813, in five different renewals. In 1813, the fine (omitting fractions) was 890*l.*, in 1820 it was 750*l.*, in 1835 it was 655*l.*, and in 1842 it was 774*l.*; improvements had from time to time been made; they did not, however, calculate exactly upon the value of those improvements, but went according to the opinion of their surveyors, which, although I sometimes disputed, and endeavoured to get a reduction, I never seriously objected to, if I thought them very fair and usual. In the property of How Gill, which I bought some time before 1840, the first renewal in 1840 was 120*l.*, and the next was 132*l.*, not a very important difference, and I had improved it a great deal. The reserved rent is small.

3097. The

3097. The reserved rents do not bear any given ratio to the property, do they?—No, they are fixed, and comparatively trifling. The reserved rent in the Newbigin lease is 9*l.* 14*s.*; in the How Gill lease, 2*l.* 8*s.* 6*d.* *H. A. Aglionby, Esq., M.P.*

8th June 1849

Account of Land bought by me, and sold.

——	When bought.	Years Term.	Annual Value.	Price.	Years Purchase.
			£ s. d.	£ s.	
Leasehold, two fields and farm buildings; J. Lowthian.	25 years ago, or thereabouts.	Took no account.	32 12 6	1,500 0	Above 40.
How Gill, late Wilson's; part leasehold, 61 A. 0 R. 23 P., part customary freehold, 12 A. 1 R. 2 P.; bought at auction.	About 20 years ago.	18 or 19 years	Leasehold, 56 19 3 Freehold, 8 18 0	1,650 0	22, or thereabouts.
Piece next the Petlerie; bought of John Lowthian; 0 A. 3 R. 0 P.	About 12 years ago, 1837 or 1838.	Took no account.	1 0 0	20 0	20.
Freehold, Conies-cum-Wharton; accommodation; 20 A. 0 R. 0 P.	1826 -	- - -	13 3 0	400 0	About 30.
Conies-cum-Wharton; accommodation; 4 A. 2 R. 0 P.	1835 -	- - -	4 2 6	117 0	About 28.
Bascodyke, 78 A. 0 R. 11 P. - (This was said to pay more than 4 per cent.)	1823 -	- - -	About 76*l.* or 78*l.*	1,800 0	25, or thereabouts.
Small piece to Mr. Fallowfield; accommodation.	Sold 1847 -	Between 15 and 16 years.	0 12 6	32 10	—
Berrystead - - -	1848 - (offered and refused.)	15 - -	44 0 0	800 0	Near 20.
John Dixon has just bought the Beck estate, freehold, rented by him for the last 20 years.			42 0 0	1,000 0	24.
Well Flat, leasehold, near Carlisle, just sold for 28 years purchase.					

3098. Is there not a covenant in your lease, with regard to woodland, that if they fell the wood and enclose it, and spring the wood again, or replant the wood, that they make some allowance for depriving you of the pasturage of the wood land?—I have no doubt whatever that there is a positive covenant in the lease.

3099. And, as a matter of fact, they felled a good deal of wood?—They felled most of the wood in that neighbourhood. They have enclosed the land and kept the cattle out; and, I believe, from recollection, certain portions of it are paid for by them at a fixed sum; but I am not sure the rest of it was taken at a valuation. As a matter of fact, the part they had felled I have had valued, and they now pay me 22*l.* a year for it, according to the valuation; part of it, lying near the river, was assessed against the Chapter in my favour, I think at nearly 35*s.* an acre.

3100. You mean for the loss of pasturage?—Yes.

3101. That property was included in your lease; when they enclosed it for the purpose of protecting the wood did you have a deduction from the fine you paid?—Yes; included, I believe; but I do not know what was done about the fine in the lease; it was not an inclosure of land for new planting, except where there were some little strips; the rest was the land of larger woods, which had been felled.

Edward Stillingfleet Cayley Esq., M.P., examined. *E. S. Cayley, Esq., M.P.*

3102. Are you connected in any way with property held under the Church?—I became a lessee under the Archbishop of York in 1840; I was not a lessee in 1837, when, as may be seen by the House of Commons debates, I felt as strongly as at present the injustice of imposing hard terms upon the lessees in any scheme of enfranchisement.

3103. To what part of the country do you desire to speak especially?—I should wish to speak generally as to the custom of the North of England. I have been requested by a committee now sitting in London to appear to offer some evidence and opinions; and, with the leave of the Commission, I will, in the first instance, state my opinion on the nature of the tenure. This document that I hold in my hand has been sent up from the county of Durham with the desire that it should be produced before the Commission. It is a most important

E. S. Cayley, Esq., M.P.

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important document in the case of the county of Durham; and, as I contend, (considering the authorities determining the question, and the seat of government of the Lord President of the North, viz. York, and that it devolved on them, as the deed states, to determine all differences of that nature in the northern counties,) in the case likewise of the dioceses of York and Carlisle, it amounts to giving to the lessee of those dioceses a legal title to renewal on easy terms. From the nature of his tenure, it has scarcely ever happened that the lessee has been able to lay his hand upon so palpable and direct an evidence that his interest in his lease was not that of the mere nominal term only, but a continuous beneficial possession.

(The document referred to by the witness was handed in as follows:)

"The certificate of the Commissioners appointed to survey the manors, lands, and "tenements of the late dean and chapter of Durham by virtue of a Commis- "sion grounded upon an Act of the Commissioners of England, assembled in "Parliament, for abolishing of dean and chapters, returned into the Register "Office of the Court of Chancery at Durham, 1st October 1649.

"We, the Commissioners of Survey, appointed and authorized for the survey of the "several manors, lands, tenements, and hereditaments of the late dean and chapter of the "cathedral church of Christ and Blessed Mary the Virgin, of Durham, by virtue of a "commission to us granted, grounded upon an Act of the Commissioners of England, "assembled in Parliament, for abolishing of deans and chapters, under the hands "and seals of five or more of the trustees in the said Act nominated and appointed, "having deliberately perused several very ancient records, leger books, halmot court books, "court rolls, and accounts belonging to the said late dean and chapter, and yet remaining "at Durham, and having also heard the deposition of many witnesses produced touching "the customary estates in reversion claimed by the present tenants of the said late dean "and chapter, thereby, and by all other lawful ways and means, to inform ourselves of the "truth of the said claim, do in all humbleness certify as follows:

"Imprimis, we do find that the several manors, townships, and villages of Belsis, "Billingham, Wolveston, Newton Bierly, Rountoft, Coopon, Bewly, &c., were part of "the possessions of the prior and convent of Durham abovesaid, and very antiently belong- "ing to the same. And we do hereby find, that it manifestly appears, from the year of "our Lord 1500, that there were constantly (till the dissolution of the said prior and "convent, which was about the twenty-eighth year of King Henry the Eighth,) several "halmot courts holden for the said prior, at several times in the year, of and for the all "or most of the said manors and premises, at which courts the several tenants of and "within the said manors, townships, and villages came and entered their purchases, took "admissions as heirs or widows respectively, as the case required, and the entries thereof "were and are made *cepit de domino*, &c. such and such lands, faciendo domino et vicinis- "que incumbent, &c., reddendo et faciendo in omnibus prout, &c., such an one the last "tenant, reddidit et facit, and the like, as in copyholds and customary estate is usual, and "as, by exceeding many ancient and constant precedents and entries, doth and may appear: "That afterwards, after the said prior and convent was so dissolved, and their possessions, "revertions, priviledges, and inheritances vested and settled by Act of Parliament in the said "King Henry the Eighth, and his successors, and conferred over, amongst other lands and "possessions, to a dean and chapter by him newly erected, and their successors, by his "letters patents bearing date the 16th day of May in the 33d year of the reign of King "Henry the 8th.

"That after that all the tenants of the said prior and convent, with all the said manors, "villages, and townships, becoming tenants of the said new erected dean and chapter, did "continue their holds and possessions in their said farmholds and land, and could not "be prevailed withall by the said dean and chapter to take leases for twenty-one years in "writing, though but at the old rents, howbeit much laboured and endeavoured by them, as "appeared by some few inconsiderable leases made by them to strangers of their lands, in the "nature of concurrent leases, and of the reversions thereof, which yet were constantly, and are "to this day, enjoyed by the then present tenants or their assigns, or such as do derive their "interest or have descended from them; the said lessees being employed, as it seems, to "terrify the said tenants from their old way of holding, into new leases, who yet continued "in that manner paying and performing the antient yearly rents and services accustomed, "and very few leases were taken till the fifteenth or sixteenth year of the late Queen "Elizabeth's reign, as by the receipt books and rentals plainly appears.

"That the many and great differences ensuing betwixt the said dean and chapter and "their tenants concerning their estates, customs, and services, and the manner of the holds, "which the said dean and chapter endeavoured to have altered, the then honourable "lords of Her Majesty's Privy Council of the North, who from Her Majesty was authorized "to hear and determine all differences of that nature in the northern counties, called "before them the said parties concerned, and upon full and deliberate hearing and con- "sideration had of the several demands, objections, and answers of all the said parties, "and by and with the consent of the said dean and chapter, did for the further and quiet "settlement of the said estates, customs, holds, and services, make, decree, declare, and "set down their order, which was entered as well in the books of orders and decrees of "the said President and Councell and of the Privy Councell, as in the Court of Chancery "at Durham, bearing date the 17th day of August in the 19th year of the reign of the

"said

" said late Queen Elizabeth, thereby ordering, amongst other things, that the said tenants " should hold their lands and tenements from the said dean and chapter by lease for " twenty-one years, and so from twenty-one years to twenty-one years for ever, paying " only three years fine at the most for renewing a lease for twenty-one years as aforesaid; " and in consideration thereof the said tenants to continue the performance of their ancient " and accustomed service in the wars, with horse, man, and furniture, upon the borders " and marches of England, towards Scotland, for the space of fifteen days, without wages, " when the said dean and chapter or their successors should require.

" That the then dean and chapter, in approbation thereof, and consenting thereto, did " confirm the same under their chapter seal, bearing date the 27th day of February in the " twentieth year of the reign of the late Queen; and in observation and pursuance of the " said order in relation to the three years fine therein specified, the said dean and chapter " did, by their chapter act or grant, bearing date the 12th day of April anno domini 1626, " order and appoint, that the said tenants should have their leases renewed from time to " time without difficulty or delay, paying a year's fine every seventh year, without any " other exaction or demand, which by true account is three years fine for a lease of twenty- " one years, as by the aforesaid order is limited and appointed.

" And it doth also appear unto us, by the oaths of several persons produced and sworn, " thereby and by all other lawful means to inform ourselves of the truth of the claim made " by the said tenants of a customary estate in revertion in their tenements and farmholds " after the expiration of their present leases, that the said tenants have accordingly had " their leases renewed from twenty-one years to twenty-one years, and their fines never " exceeded about three years rent, at improvement from time to time for twenty-one " years, paying three years rent at the improved value, clear profit, ultra old rent and " service, as a fine for a lease for twenty-one years, and to pay and perform their ancient " yearly rents and services accustomed; and the said tenants have always had their leases " renewed from twenty-one years to twenty-one years, and their fines never exceeded about " three years rent at the improvement as aforesaid.

" And it also appeared by the evidence upon oath of diverse witnesses, sworn and " examined, that the said tenants right or trust in any estate in reversion so claimed as " aforesaid of and in the premises was so considerable in the general repute of the inha- " bitants of that county, and the parts adjacent, as that the said lands and tenements was " alienated and sold within three years value at the most of freehold and fee simple lands, " and that the said tenants did annually alienate and sell their said tenant right or cus- " tomary estates for five years purchase at the least; and that the said dean and chapter " themselves, even when all the term of years in several leases of the said tenants were " expired, did offer five years purchase, and sometimes more, to such tenants for their " tenant right or customary estate so claimed as aforesaid, in case such tenants were not " willing or able to pay the usual fine for renewing their said leases.

" And it doth further manifestly appear unto us, that the livelihood and subsistence of " many hundred families in the said county do solely depend upon the said tenements and " farmholds, and the benefit they expect by their said claim of a customary estate and " tenant right as aforesaid; and that diverse of the said tenants and their ancestors have " continued some hundreds of years in the possession of their tenements, as it appears by " the court rolls of the said late dean and chapter aforesaid.

" Wm. Hopkins, Anthony Wilson, Wm. Fielden, Thomas Canby, Gilbert " Mashall, Wm. Parkinson, Hen. Lamby."

The Witness. I wish to call attention to some portions of this document in particular. It appears that after the dissolution of the deanery and chapter of Durham, at the Reformation, the property fell into the hands of the Crown, and that Henry the Eighth conferred it again upon a new dean and chapter. It appears that there then arose a difficulty as to the renewals with the new dean and chapter; and it states, " that, after that, all the " tenants of the said prior and convent, with all the said manors, villages, and townships, " becoming tenants of the said new-erected dean and chapter, did continue their holds and " possessions in the said farmholds and lands, and could not be prevailed withal by the " said dean and chapter to take leases for twenty-one years in writing, though but at the " old rents, howbeit much laboured and endeavoured by them, as appeared by some few " inconsiderable leases made by them to strangers of their lands, in the nature of con- " current leases, and of the reversions thereof, which yet were constantly and are to this day " enjoyed by the present tenants, or their assigns, or such as do derive their interest or " have descended from them; the said lessees being employed, as it seems, to terrify the " said tenants from their old way of holding into new leases, who yet continued in that " manner paying and performing the ancient yearly rents and services accustomed, and " very few leases were taken till the fifteenth or sixteenth year of the late Queen Eliza- " beth's reign, as by the receipt books and rentals plainly appears. That then many and " great difficulties ensuing betwixt the said dean and chapter and their tenants, concerning " their estates, customs, and services, and the manner of the holds, which the said dean " and chapter endeavoured to have altered." The above is a most remarkable passage, as showing in those days that the hold of the lessee in the leasehold was virtually inalienable; for, in spite of the grant of concurrent leases to other parties, the old lessees continued to hold their property pretty deep into the succeeding reign, whilst this inveterate hold upon his lease was in previous times, and up to 1649, apparently preserved by the lessee, although he

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he had no security in writing for the exact term of his lease. The following passage seems to infer that the same custom in all probability prevailed generally in the northern counties, as in this particular diocese of Durham. "The then honourable lords of Her Majesty's "Privy Councill, and Lord President and Council of the North, who from Her Majesty was "authorized to hear and determine all differences of that nature in the *northern* counties, "called before them the said parties concerned, and upon full and deliberate hearing and "consideration had of the several demands, objections, and answers of all the said parties, "and by and with the consent of the said dean and chapter, and for the further and quiet "settlement of the said estates, customs, holds, and services, make, decree, declare, and sett "down their order, which was entered as well in the books of orders and decrees of the said "President and Council and of the said Privy Council as in the Court of Chancery at "Durham, bearing date the 17th day of August in the nineteenth year of the reign of the "said late Queen Elizabeth, thereby ordering, amongst other things, that the said tenants "should hold their lands and tenements from the said dean and chapter by lease for "twenty-one years, and so from twenty-one years to twenty-one years *for ever*, paying "only three years fine at the most for renewing a lease for twenty-one years as aforesaid; "and in consideration thereof the said tenants to continue the performance of their ancient "and accustomed service in the wars, with horse, man, and furniture, upon the borders "and marches of England towards Scotland, for the space of fifteen days, without wages, "when the said dean and chapter or their successors should require." I may be allowed here to state that it is this passage which appears to give to the lessee of the diocese of Durham a legal title to the renewal of their leases on limited terms; and if the archives of the other northern dioceses could now or at some previous period have been ransacked, it is more than probable, from the entire context of this document, that an equally valid title to a renewal of his lease might have been discovered by the lessees of all the northern counties, that is to say, of the dioceses of York and Carlisle. It has been traditionally stated that the fine was subsequently converted into a year and a quarter or a year and a half's rent in the diocese of Durham when military service was no longer required from the tenant by the bishop palatine of the county of Durham; that is to say, that a quarter or half a year's rent once in seven years was considered the equivalent for military service. And one reason why the fine was increased during the last century in others of the northern counties, I may at the same time observe, arose probably from the fact of its having become more usual to consult the tables of actuaries. In the diocese of York in particular an increase of the fine arose from that particular time when actuaries began to be consulted by the bishops in the case of renewals of leases for lives.

3104. What date do you assign to that?—Somewhere about the middle or three parts through the last century; about 1770. At the same time there arose an equivalent advantage arising out of the same source to the lessee. The lessor, no doubt, obtained a larger amount of fine. The lessee, however, from the practice thereabouts commencing of insurance, provided his fine with quite as little difficulty as he had done previously. This document goes on to give the sanction of the dean and chapter in a formal manner to the terms prescribed by the commissioners for the lessees to pay for renewals. "That the then "dean and chapter, in approbation thereof, and consenting thereto, did confirm the same "under their chapter seal bearing date the 27th day of February in the twentieth year of the "reign of the late Queen; and in observation and pursuance of the said order in relation "to the three years fine therein specified, the said dean and chapter did by their chapter "act or grant, bearing date the 12th day of April, Anno Domini 1626, order and appoint "that *the said tenants should have their leases renewed from time to time without difficulty or "delay, paying a year's fine every seventh year, without any other exaction or demand, which by "true account is three years fine for a lease for twenty-one years, as by the aforesaid order is "limited and appointed.* And it doth also appear unto us, by the oaths of several persons "produced and sworn, thereby and by all other lawful means to inform ourselves of the "truth of the claim made by the said tenants of a customary estate in reversion in their "tenements and farmholds after the expiration of their present leases, *that the said tenants "have accordingly had their leases renewed from twenty-one years to twenty-one years, and their "fines never exceeded above three years rent at improvement from time to time for twenty-one "years*, paying three years rent at the improved value, clear profit, ultra old rent and ser- "vice, as a fine for a lease for twenty-one years, and to pay and perform their ancient "yearly rents and services accustomed; and the said tenants have always had their leases "renewed from twenty-one years to twenty-one years, and their fines never exceeded above "three years rent at the improvement as aforesaid." Here follows also a most significant passage as to the value in public estimation at that time of the lessee's customary right of renewal: "And it also appeared by the evidence upon oath of diverse witnesses sworn and "examined that the said tenants right or trust in any estate in reversion so claimed as "aforesaid of and in the premises was so considerable in the general repute of the inhabi- "tants of that county and the parts adjacent as that the *said lands and tenements was usually "alienated and sold within three years value at the most of freehold and fee simple lands*, and "*that the said tenants did usually alienate and sell their said tenant right or customary estates for "five years purchase AT THE LEAST*, and that *the said dean and chapter themselves, even "when all the term of years in several leases of the said tenants were expired, did offer five years "purchase, and sometimes more, to such tenants for their tenant right or customary estate* so claimed "as aforesaid, in case *such tenants were not willing or able to pay the usual fine for renewing their "said leases.*" The document concludes by referring to a circumstance equally true at

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the present day: "And it doth further manifestly appear unto us that the livelihood and "subsistence of many hundred families in the said county do solely depend upon the said "tenements and farmholds, and the benefit they expect by their said claim of a customary "estate and tenant right as aforesaid, and that diverse of the said tenants and their "ancestors have continued some hundreds of years in the possession of their tenements, as "it appears by the court rolls of the said late dean and chapter as aforesaid." This is a very important feature of this case; because I would draw the attention of the Committee to the fact, that the proposed commutation or enfranchisement of church leaseholds, whichever it be that shall obtain, does not affect the interest of persons of large landed estates only; but, at least in the North, where yeomen exist still in great numbers, these leaseholds compose perhaps the entirety of what the lessees possess; and it is very well known that in their case, as in that of other landed proprietors, their property is often heavily burdened with settlements or mortgages; and to exact therefore any very material sum from this class, beyond what now practically comes out of their pockets for renewal fines, would amount in reality to nothing short of an alienation or a confiscation of their property. With regard to the period during which this tenure has existed, it appears that this document carries it back 200 years, and takes it back 300 years, I think, in one passage; but it states also, that "the said tenants and their ancestors have continued *some hundreds of* "*years* in the possession of their tenements;" speaking of their having been at that time some hundreds of years in possession. Therefore this tenure is not of merely 200 or 300 years duration, but in all probability it is from the first erection of bishopricks and deaneries in this country, and may just as probably be 600 or 700 as 300 years old in the case of deanries, and above 1,000 years in the case of bishopricks.

3105. According to this document, does it not purport that they were tenants of the dean and chapter before the Reformation?—Yes; and it says that these tenants had then been some hundreds of years in possession of their estates.

3106. During this early period is it not admitted that the military service was a reality, and not a name?—I remember, in 1837, upon inquiry into this subject, believing that I had ascertained, (I think through some Act of Parliament passed, I forget in what year, but something like 150 or 200 years ago,) that this military service was commuted, in the diocese of Durham, for a certain payment, whether it was for a quarter of a year's rent or for a half year's rent I forget, but I should imagine that in all probability Carlisle being near the borders, as well as the deanery of Durham, and York not being far from the borders, that probably the same custom would begin somewhere about the same time to prevail in each of these northern dioceses.

3107. Supposing that to be an explanation of a change at one period, how does that explain the progressive increase at different periods?—I do not know that it appears upon evidence that there was any increase for a long space of time after the period referred to in the document I have given in.

3108. Speaking of Carlisle, in 1704 it appears it was fixed that it should not be less than one year; in 1764 it was fixed to be not less than a year and a quarter's full value; and in 1774, ten years after that, it was fixed to be not less than a year and a half; how do you explain that?—If there is no other evidence upon the subject, I should say the first increase showed a tardy approximation in the diocese of Carlisle to the custom then prevailing in Durham; and if this commutation really did take place in the diocese of Durham for military service, the probability is, for the same reason that there seems at present a disposition to equalize the fines in some of the dioceses, that they proposed at that time also, after a long lapse, an additional fine, in order to make the fine in Carlisle again equal to the fine in the county of Durham.

3109. In the document which refers to that it is stated to be "agreeably to the practice of other dioceses"?—In all probability that was the case. When I stated just now that the military service was commuted, that was merely an impression that I had that there was an Act of Parliament. I may state, with regard to this tenure, that until Parliament began to interfere on the subject in 1837, there was precisely the same interest on the part of the lessor to renew, as there was on the part of the lessee. The bishop when appointed was generally an oldish man of sixty, certainly not younger than fifty. The unexpired term of a lease for lives, as to which I principally would speak, and particularly of Bishop Hold-land, was so long, that the bishop, according to the ordinary motives which sway the human mind, could not but have an interest to renew. And the customary payments that arose out of that tenure I would submit as a strong proof of a right adjustment of the fairly ascertained interest of the lessor and lessee; because it had the sanction of a voluntary agreement of both the parties chiefly interested. In that long course of years, if there had been any strong adverse interest on the part of the bishop to these terms granted to the lessee, in all probability it would have been discovered by some bishop or other; whereas the constant custom has been as I have stated, with very slight exceptions, and those exceptions arising out of great neglect on the part of the lessee in not renewing his lives, and the last life left in being perhaps an old man. The uniform custom for centuries has been to renew. A notorious case under Archbishop Markham in the county of York occurred of the forfeiture of a lease, where the lessee would not renew the first life that died; and when the second life dropped, the archbishop found that the surviving life was a much older man than himself, and he resolved to put in one of his sons in a concurrent lease; and from his surviving the life in the lease that property subsequently fell to his family,

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family, and is possessed by his family to this day. These are exceptional cases. There was another instance, however, where all the lives in a lease dropped without renewal, and the archbishop granted to the old lessee a renewal with three new lives for eighteen years purchase.

3110. Would you not have held the same language in 1704, that it had been found by long experience of two hostile parties that a year was exactly the right fine to give? would you not also have held the same language in the year 1764, that a year and a quarter was the right fine to give; and in the year 1774 that it had been found by the experience of two hostile parties that the right fine was a year and a half?—I might have urged that, no doubt; but it would have been for me to consider, considering the smallness of the previous fine, whether that small additional fine was worth my contesting in a court of law, or as a matter of equity. I may add, in reference to Carlisle, to which diocese the question has reference, that the year's fine having been defined in Durham fifty years before, the change in 1704 appears more in the light of establishing a uniform practice in Carlisle diocese than an absolute increase of fine. With regard to the second instance, which was a rise of a quarter of a year's rent, that might also be to conform to the practice of Durham, which had, I believe, commuted its military service; and the last rise I believe to have resulted from a balancing of the lessors' and lessees' interests by the tables of actuaries. May I here recal to the attention of the Commissioners this fact: that notwithstanding the lessor undoubtedly has claimed the power occasionally to increase the fine, although very seldom, and at very long intervals, the exercise of which power has, however, I should imagine, depended in some measure on a general decline in the interest of money, which still left the lessee in as favourable a position as before, as compared with other investments; and notwithstanding the lessor also claims a power, which no one doubts, of imposing the fine upon the improved value, that there still remains no very insignificant power in the hands of the lessee. If the lessee is put to his straits, say, if the renewal for twenty-one years is refused him at the expiration of seven years, his lease has then fourteen years to run. Are the Commissioners aware of the extent of the power of a lessee, during the last years of a lease, to depreciate the value of his land by scourging it, and extracting out of it all its available wealth, without any compunction as to the state in which he leaves it? My opinion is pretty strong upon that point; but, not wishing to rely on my own opinion, I inquired yesterday of two of the highest authorities in this town their opinion upon that point, and I put the case to them. I said, "Supposing there were no covenants "as to management, and in these leases there are very few, if any, and supposing the "tenant during the last six years of a lease is determined to extract everything he can "for his own benefit, how much do you think he could injure the land? Supposing the "land had to be sold at the expiration of the lease, to what extent, under that course of "scourging, would the value of the land be depreciated?" That question I put first to Sir James Graham, and he gave me permission to state his answer; and his answer was, "To the extent of half the fee simple, supposing no covenants as to management, and that "he sweated his land to the uttermost." I would urge, although that is a power never heretofore called into action, that if there were to be any disposition on the part of Parliament or the Church not to renew, that there is a latent power in this respect in the lessee, which he might use much more to the detriment of the Church than the Church might hope to benefit by an unfair or inequitable commutation of the present tenure. The next person I asked was Mr. Driver, the well-known valuer and land agent; and I put the same question to Mr. Driver; and he said, "Upon average land it would depreciate the "value of the estate to the extent of half the fee simple; in very good land, which is more "easily recovered, it would not be so much; in very hungry land the mischief could hardly "be recovered in a lifetime." This is strong evidence. Although I acknowledge, therefore, that there is a considerable power in the lessor which has occasionally been exercised, but never, or scarcely ever harshly, by the Church, it is scarcely to be doubted that there is an equivalent power in the hands of the lessee. If we roughly estimate this power of the lessee in figures on the data I have given, it amounts to this; if his twenty-one years lease is not renewed, he has then fourteen years possession. His usual beneficial interest in the property is four fifths:—in the case of a farm of 100*l.* per annum, equal to 80*l.* The first eight years his lease is worth to him 64*0l.* (without profit as a farmer); the last six years he extracts half the fee simple of the land, which at twenty-eight years purchase is 1,400*l.*; this added to 64*0l.* makes twenty and a half years purchase as the value of his lease, without renewal. A lessee for lives has of course a proportionately greater advantage.

3111. Are you not aware, that, without any covenants whatever for cultivation, in case an estate is so used as materially to damage it and reduce its value, there is at common law a remedy against a person (independently of any covenant) who dares to use an estate in that way?—I doubt if he could get his remedy under these leases in a court of law.

3112. Are you aware whether that is so in a case where there is no lease?—In a case of ordinary yearly tenancy without any lease I admit the custom of the country would prevail in a court of law, but the case of these leases is very different. I may add, as another confirmation of the confidence, and the natural confidence, on the part of the lessee, in renewal, two cases, which I believe have already appeared before this Commission. One of these is an advertisement of sale adduced by one of the witnesses from Cumberland, in which a continuance of the beneficial interest was proposed to the public by the dean and chapter of Carlisle's own agent as an inducement to purchase. The other is a case of the division of the proceeds of the sale of some leasehold land sold to the Carlisle Canal Company, where the division

division between the dean and chapter and the lessee was in the ratio, I think, of above three fourths to the lessee, and less than one fourth to the dean and chapter.

3113. Was that upon a twenty-one years lease?—Yes. I would also urge that one of the reasons why Lord Monteagle's plan in 1837 did not take effect was because it was discovered upon investigation that it would increase so much, practically, the out-payments of the lessee that at that time the sense of Parliament revolted at the injustice of the terms. Perhaps this Commission may not have estimated, which at that time I did, the degree in which those terms would have mulcted the lessee, if that scheme had been carried through Parliament. The value of the fines from church leases at that time was calculated, I think, at 261,000*l.* a year by Lord Monteagle; and he proposed by his terms to raise them to the extent of 513,000*l.*, which is exactly, at twenty-eight years purchase, equivalent to taking seven millions of money from the lessees more than they were then paying. With regard to the principle upon which this change should take place, I should say that Parliament, through a committee which sat for a long time and took great pains upon this subject, has stated the just and true principle. That Committee in its final Report recommended that "the customary "confidence of renewal by the lessee (should) be considered according to local circum- "stances by the authorities established under this Act in the principle of enfranchisement "laid down by them." That is the concluding portion of the Report of the Committee of the House of Commons which sat from 1837 to 1839, and which reported in 1839. I would state also, that there is I think even higher authority, because strictly impartial, as to the right basis of this change, and that is the Report of the Real Property Commissioners, who reported, I think, in 1832; and this is an extract from their Report: "We "think," say the Commissioners, "it is desirable that there should be a final settlement "between the Church and the laity upon the basis of present enjoyments, but so as not "to give sanction on either side to any recent usurpations which have not acquired the "semblance of established right." It appears to me that the case of the lessees cannot be supported in stronger language, or upon juster grounds.

3114. And what do you consider to be the basis of the present enjoyment?—The present practical value of his property to the lessee. And I may state that until the year 1837, when this question was first mooted in Parliament, he did not wish for change, being perfectly satisfied with his tenure, and having no complaint whatever to make of his landlord,—the bishop, or the dean and chapter. I speak only as to the North, and as to twenty-one years leases, and leases for three lives. The present enjoyment of a lessee in a lease for twenty-one years is at present as follows: Taking the case of a farm of a clear rental of 100*l.* a year, he has a year and a half fine to pay; to meet that fine at the end of seven years, he has to lay up yearly with interest 18*l.* 19*s.*

3115. Putting by 18*l.* 19*s.* at what rate of interest do you reckon?—I believe they take it at three and a fraction per cent.; but if he had to lay up a sum, without reckoning interest it would be 21*l.* per annum. This lessee of a twenty-one years lease therefore has enjoyed at least four fifths of the value of this property, perhaps for the last thousand years. 20*l.* out of the 100*l.* has gone, in round numbers, to the Church, and 80*l.* per annum has come into the lessee's own pocket. In the case of a lease for three lives, the fine falls in upon an average once in sixteen years. The lessee has to provide, therefore, supposing the renewal to be by the five per cent. tables, which is usual, and is equivalent upon an average to a fine of two and a quarter years' rent,—the lessee has to lay up with accruing interest 9*l.* 10*s.* a year in the case of a farm of 100*l.* a year clear rental, in order to meet the fine of 225*l.* at the expiration of sixteen years.

3116. When you say that sum will be equivalent, at what rate of interest are you speaking of?—At the same rate of interest as before stated. But I intended to put the case both ways. If the accruing interest is not reckoned, then by laying up 14*l.* a year the lessee meets the fine at the end of sixteen years; but if he takes advantage of those circumstances which, as I have said before, I believe led the Church to raise the rate of fine during the last century, and goes to the insurance offices, he then can for 4*l.* 4*s.* 6*d.* per annum meet his fine of 225*l.* at the expiration of sixteen years. In the three cases, or at all events in the two cases, if he laid by 9*l.* 10*s.* he has for many hundred years enjoyed nine tenths of the estate; if he laid up 14*l.*, and so met his fine at the end of sixteen years, he has for a similar period been in possession of seven eighths of the estate; but since he has been enabled to ensure, by paying 4*l.* 4*s.* 6*d.* yearly out of the 100*l.*, he has enjoyed nineteen twentieths of the estate. I need scarcely add that anything beyond those sums and proportions that may be demanded from him, now, to commute these payments, will be so much directly and gratuitously extracted out of his pocket, contrary to his expectation and confidence; and, in the case of a small yeoman, will fall extremely hard, and, as I know from my own experience of that class, must frequently amount to the necessity of a sale of the estate, perhaps after the family have been in possession of the same land for two or three hundred years. If I am asked for a confirmation of these values, taking as an instance a lease for lives, there appears a wonderful confirmation of the values I have stated. I went to Mr. Morgan; and in going to him I presumed I went not only to a very high authority, but to a person who had previously given what were supposed to be opinions very favourable to the Church; and I asked him to calculate this case:—Suppose a lessee even with three very bad lives, viz. forty-eight, fifty-seven, and eighty-five, to have the privilege of renewing as often as a life drops, by the five per cent. table, which gives a fine upon an average of two and a quarter years rent, and the value of the

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land estimated by the four per cent. tables, namely, at twenty-five years purchase in fee simple; what in this case would be the value of the lessee's beneficial interest, and what the value of the remaining interest in the property, namely, of the lessor. His answer was, that, reckoning the value of the customary right, the lessee's interest would be 2,240*l.*, and the remaining interest 260*l.* The lessee's interest would be twenty-two and two fifths years purchase; the Church's interest would be two and three fifths years purchase. If you convert that 260*l.* the Church's interest, where the customary right is taken into consideration, you get an equivalent perpetual rent-charge of 10*l.* 4*s.*, which comes very nearly to what in practice the lessee, by laying up to meet the fine, at present has to pay, namely 9*l.* 10*s.* This is a case of leases for lives. I mention this as a striking corroboration of the strength of the lessee's claims; because it appears, that, the Church never having led the lessees to doubt the certainty of the renewal, the calculation of the actuaries comes, including the value of the customary right, almost precisely to the marketable value.

3117. Why do you take the value of a landed estate at twenty-five years purchase?—I have not the least objection to take it at twenty-eight and a half years purchase; and I may state that, although there is some, it is a fallacy to suppose there is so great an advantage to the lessee as has been supposed, in calculating by the four per cent. rather than by the three and a half per cent. tables. If you calculate by the three and a half per cent. tables, which is equivalent to twenty-eight and a half years purchase for the fee simple, and the value of land is not more than twenty-eight and a half years at the present moment, the result to the lessee is not more, in a calculation of this kind, than a difference varying perhaps from a half to two and a half years purchase. There was an idea prevailed in 1837, when Mr. Spring Rice introduced his proposition, that he was giving an advantage to the lessee in the calculation of five years purchase by calculating by the four per cent. tables; but that was an unfounded assumption. The same case as the previous one calculated by the three and a half tables, gives the following result:—The lessee's interest in this case would be worth 2,333*l.*, or twenty-three and a third years purchase; the remaining interest would be worth 517*l.*, or five and two thirds years purchase; that is to say, it would be a difference, when converted into a rent-charge, of between 18*l.* 1*s.* 10*d.* and 10*l.* 4*s.*, which is equivalent to two years purchase. I may add, however, that the calculation of these rent-charges by actuaries often includes the present value of all future fines, which makes them therefore higher than what the lessee has now annually to lay up. It certainly would not be fair to make the lessee pay yearly at the present day the value of all future fines by way of rent-charge, and then to charge him extra for enfranchisement. In giving these estimates I do not profess myself to be very conversant with such calculations. I came, after some reflection, to what appeared to me the conclusions dictated by common sense and justice, reckoning the sums which now practically went out of the lessee's pocket, and on that basis estimating what, after such a great length of tenure, and confidence in renewal, ought in fairness to be demanded from the lessee for a perpetual commutation; and I went to Mr. Morgan to ascertain whether these common-sense views tallied with the results, estimated on the same bases, drawn from the tables. A good deal has been said on the subject of unrealized value over and above the interest of the lessor and lessee in these estates. This appeared to me to be a fallacy. It was quite plain to my mind that the lessee in possession enjoys the whole of what is called the unrealized value; and I strongly suspected that what is called the unrealized value was neither more nor less than the value of the lessee's customary right of renewal. I again consulted Mr. Morgan, and told him, "A good deal has been said upon the subject of unrealized value, and it "is asserted that there is such a thing as an unrealized value in this property. I have "been thinking the matter over, and it appears to me that there is no such thing as an "unrealized value. In practice what is called the unrealized value is nothing more than "the value of the customary right of the lessee. I wish you would calculate according to "the three and a half per cent. tables, in the case of a farm of 100*l.* a year, the value of the "lease (with three old lives, forty-eight, fifty-seven, and eighty-five), including customary "right of renewal." The calculation, including customary right of renewal, gives twenty-three and a third year's purchase to the lessee, and to the lessor fifty-four and two-thirds years purchase, making up together the whole twenty-eight and a half year's purchase, and leaving no unrealized value. It will be observed that the value given by this calculation to the lessee's property tallies with the prices practically given in the market for the same species of property, as just stated by Mr. Aglionby. And Mr. Morgan, having calculated the value of the mere term with the same lease, and finding (by the same tables) that the lessee's interest was fifteen years purchase only, and the lessor's thirteen and a half years, came to this conclusion:—"It may be said that if such a privilege or right of renewal exists, "its value would vary in leases for terms certain, and for lives, from five to ten years "purchase of the clear rental of the land." I would observe how remarkably that tallies with the practical conclusion come to by the commissioners in 1649, when they state that the acknowledged value of the customary right was at the least five years purchase, and that the difference between the value of leasehold and freehold land at that time was only three years purchase.

3118. Is this the result of a conversation with Mr. Morgan, or is it a conclusion of his from a written paper?—I had conversations with him, and I left him questions for solution at his leisure, and these are his answers in writing. In reference to the position I advanced to him, that that which was called the unrealized value is nothing more than the

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value of the customary right of the lessees, and that which, until he may be disturbed by what I should term an unjust decree of Parliament, he has for hundreds of years been the beneficial possession of,—Mr. Morgan, in a letter I received from him, says, "It does "so happen that the customary privilege of renewal, as expressed in this case, is equal to "about as many years purchase as the unrealized value arising from a sale separately of the "lessee's term and of the reversion; but the two valuations have nothing to do with one "another; they proceed upon entirely different grounds." From which last expression I presume Mr. Morgan might be a little jealous that so similar a result was come to by rule of thumb, rather than through the medium of the tables.

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Thursday, 14th June 1849.

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EDWARD STILLINGFLEET CAYLEY Esq., M.P., again called in, and examined.

3119. YOU finished your last observations by stating that what had hitherto been considered as the unrealized value existing in the present condition of church leasehold simply represented the customary privilege of renewal, which you imagined to be rightly relied upon by the church lessees?—Yes, I see no unrealized value; I should be very glad to be set right if I am wrong.

3120. Do you mean to say that whenever the customary privilege of renewal is looked upon as equivalent to a right, the value of the lessee's interest, and the value of the reversionary interest of the lessor, must be an equivalent to the whole value of the fee?—Yes. By whatever tables you calculate that must be the result. And I may add, that the reason I put that question to Mr. Morgan for solution was this: It appeared to me that in the case of a lessee who had been in possession for 100, or 200, or 300 years, and who had no intention whatever to sell his estate, but who had been in possession so long, and intended to remain in possession, that he must be in the enjoyment of a beneficial interest of all that the land would produce, except that part which went in the shape of a fine to the lessor. It was that conviction merely, deduced from what I would call a common-sense view of the case, that led me to Mr. Morgan to ask him to calculate the value of the lessee's interest, including the customary right of renewal.

3121. Do you make no allowance then for the charge against the lessee for improvements in the interval?—It is to that point I should wish to call the attention of the Commission. If the Commission or Parliament in this commutation proceeds upon the basis, which appears to me the only just one, of allowing the lessee's customary right of renewal to be considered, I think the only claim of the lessor to anything beyond what is now paid in the shape of fine is for the power which he has always exercised of charging the fine upon the improved value. What the value of that power is, more or less, since I last appeared before the Commission, I have endeavoured to estimate, without any claim whatever to any greater knowledge on the subject than any other person connected with this kind of property may possess. It appears to me that upon the average the improved value of arable land would not be demanded by the lessor in twenty-one years leases renewable every seven more than once in twenty-one years, or once in three renewals. It would not be demanded from the lessee for lives more than, perhaps, every other renewal; that would be, on the average, once in thirty-two years. And in going to Mr. Morgan the other day to ask for the solution of another question which was put to me, I said, "Supposing it to be the "case that the improved value is not demanded oftener on the average than what I have "now stated, and the average improved value is ten per cent.,"—putting a leading question, I said, "Do you think that power would be worth more to the lessor than one year's "purchase?" He thought for a moment, and he said, "No; at a rough guess I should "really think it would not be worth more than one year's purchase." Then I may add, speaking, as I would wish to do, candidly on the subject, that it appears to me that although the tables give to the lessees including customary right something like (stating it in rough) twenty-three years purchase for leases for lives, and twenty-two years purchase for leases for twenty-one years, yet I should expect that there would be a difference between that tabular value and the market value to the extent of one, one and a half, or two years purchase. And *that* difference or dropped value I conceive to have arisen, not from any doubt of the renewal, but simply from taking into consideration the power of the lessor to charge upon the improved value. According to the above calculation, I believe that that power would not be worth more than one year's purchase. In practice, and speaking of the North, it might possibly amount to two years purchase in some cases.

3122. According to your view of the case, as far as I see, the market value of the lessor's reversionary interest ought to make up in every case an equivalent to the fee simple value in the same district?—No, I would not say *that*, because if the lessor and lessee are compelled to sell their interest separately you will not get the values which belong to them, either according to the general market value, or according to the tables.

3123. Is the only difference that can slip between the two the right of charging for improvement?—I believe that is the whole of what does slip between in the sale; that, according to the tables, there is no intervening value. If they were sold separately the marketable value would

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ordinarily be less than the tabular value, for the cause that has been assigned, namely, the power to charge the improved value; but the reversionary interest almost invariably sells also less well than the tabular value, because men prefer an interest in possession to an interest in reversion, generally speaking. From that circumstance the market value of the lease is worth less (we will say by one year's purchase, or by two years purchase) than the tabular value with the customary right; the reversionary interest almost always selling (except in Mr. Morgan's opinion, which, in this particular, differs from every other opinion,) for less than its tabular value; under these circumstances undoubtedly there will be an intervening value. But, if you will allow me to say so, there is no more difference in this case than there would be in the case of a freehold. I have an undivided moiety with some other person of 100*l.* a year; we are obliged, by some power over which we have no control, to sell our moieties separately; if we are bound by that power to sell, I very much doubt whether we should get the full value of the fee simple any nearer than we should in the present case of leaseholds.

3124. In that case of undivided moieties, is there an unrealized value, which cannot be developed under that state of the law, but which by change of the law could be?—I would ask this: Supposing two persons were the possessors of those undivided moieties of a freehold estate, the beneficial interest in the whole of which they possessed so long as the two were not obliged to sell, what would be thought of the justice of Parliament breaking in upon the usual tenure of such properties, and, because there was, or might be under a possible contingency, an unrealized value, compelling the parties possessing these undivided moieties to go into the market to sell those moieties, for the purpose of Parliament seizing on that part of the property which in the sale the parties, selling separately, could not themselves realize.

3125. All the witnesses who have been examined speak of a dropped value. Suppose I am a tenant, and I have an interest in the property, which would sell, we will say, for eighteen years purchase; you are the reversioner; the fee is worth thirty years purchase; if we join therefore at once, nobody need ask who is the tenant, and who the lessor. If we join in offering that for sale, we shall get thirty years purchase between us; if, on the contrary, we do not join, but each sells separately his particular estate, then we shall only get, we will say, twenty-three years purchase or twenty-five. Is not the difference, therefore, between that and thirty, what has generally been called the "dropped value"?—I do not acknowledge that *in esse* there is the unrealized value; but if there might be such a dropped value, I cannot admit the justice of Parliament compelling the contingency of the realization of such unrealized value. I put the case, which is more analogous, of father and son: The father has a freehold estate in possession, the son has the estate in reversion, then comes a power which compels these parties to sell their separate interest. Nobody supposes that in such a case there is practically what is called an "unrealized value" of that estate to the possessors; and yet these interests, sold separately, would not realize as much as the fee simple sold in possession. But what I protest against is the doctrine, that whereas this tenure is a tenure of a particular kind, namely, as between the bishop and the lessee, and between the dean and chapter and the lessee, is it just that a power ab extra, which had nothing whatever to do with the property beforehand, should interfere to compel these parties against their will to make a sale of their estate; and because, if sold under a certain contingency, namely separately, there would, under that contingency, be an unrealized value, that this power should claim for itself this unrealized value; whereas at the present moment, in the leasehold as in the freehold, there is no such thing as the unrealized value if the estate is not sold, because that unrealized value is wholly and entirely in the possession of the freeholder and the lessee.

3126. My question is, is there, or is there not, a dropped value when parties are so circumstanced? When one has an estate with a right of renewal, if you please to call it so, or expectation of renewal, and the other party has the reversion, if those two parties go into the market with the value put upon their two distinct estates, would that value be equal to the value of the fee simple or not?—When they are compelled to sell separately it would not be equal in the case of leaseholds any more than it would be in similar circumstances in the case of freeholds.

3127. If there was an enabling Act, not a compelling Act, enabling these two parties to go and sell a fee simple in possession, instead of their separate estate, then there would be something realized more than would have been realized if they had each taken their property into the market separately, would there not?—If there was an enabling Act, and the Church act on the same principle that they have hitherto acted, then I conceive that the lessee's property would sell for the same marketable value that it has always hitherto sold until Parliament began to interfere.

3128. The lessee's property would sell for that marketable value; but that marketable value added to the Church value, the reversion would not amount to the fee simple *in præsenti?*—It would not by, perhaps, one or one and a half years purchase, as regards the lessee; and, since reversionary interests are unpopular, the reversionary interest would sell for less.

3129. Do you admit that there would be some such difference?—Yes.

3130. Upon your principle how do you account for the different rates at which church leases sell in different parts of the country; that they sell in Cumberland for from twenty to twenty-two years purchase and that they sell in the South of England for about eighteen years purchase?—As I said before, I can only speak from my experience as to the North,

but

but I should presume that the difference arises from larger fines having been gradually exacted in the South than from old agreement or practice have been exacted in the North.

3131. Is church property in the North of England held by different tenure from that which is in the South; that is to say, have the deans and chapters or bishops in the North a different power of altering their terms as to renewals than that which exists in the South of England?—No, not that I am aware of, except that there may have been a knowledge on the part of the bishoprics or deaneries of the North that there existed some such documents as that to which I referred in the commencement of my examination, which appears to me not only to apply to the lessees of Durham in particular, but, as I contend, considering where the Commission probably issued from or sat, namely York, to extend also to the dioceses of York and Carlisle; that there has existed a knowledge in the Church that there was virtually a privilege given to the lessees to renew upon certain terms for ever, as is distinctly stated in that document. Afterwards, I admit, there grew up a practice of charging first a quarter and then a half year's more fine, which alteration, if the Commissioners remember, I said I fancied was contained in some Act of Parliament, and that the terms were then finally settled. But in this I believe I was mistaken. I have referred to a speech I made in 1837 upon the subject. I remember having a good deal of communication with the county of Durham people at the time, and in that speech I state "In more peaceable days this "equipment and condition of his lease was commuted for an additional fine of a half year's "rent at each renewal, making one year and a half rent every seven years, instead of one. "These terms were confirmed, if I am rightly informed, in the reigns of Henry the Eighth "and Elizabeth, and in subsequent reigns."

3132. Are you aware that it appears from returns, that in the books of the dean and chapter of Carlisle, that that rise from one year's fine to a year and a half,—not at one period, but made at two successive periods,—and that there is no reference to its having been made in substitution for any other service but with a view to assimilate the practice of that diocese to the practice of other dioceses in other parts of England?—I must say if that be the case, after seeing the document to which I have referred, with every deference to the church of Carlisle, if I am right in my inference that the same privilege really attached to the church of Carlisle as to Durham and to York, I cannot but think, except for the commutation of military service, that that was an encroachment upon the fair and equitable rights of the lessees.

3133. Do you think that an Act of Parliament might fairly have been passed previously to such an operation, restricting the ecclesiastical authorities to one year's fine?—Except so far as regarded a substitution for military service, I do.

3134. Have you ever considered what differences would arise in reference to the change in the interest of money?—I believe I stated before, or I intended to state before, that probably in other dioceses that one of the objects or reasons for the increasing of the fine was from the fall in the value of money, which still left the lessee as great and comparative advantage in relation to other investments as he enjoyed before.

3135. Would you have now an Act of Parliament passed to prevent the northern dioceses assimilating their terms to those of the southern dioceses?—What I should like to see done in this case, as in the case of tithes, is, that the question, as it has been stirred, should be finally settled upon the principle of present enjoyments and customary payments. I do not know whether I could better state my views on this point now than I did in a discussion on this subject in the House of Commons some years ago. If I may be allowed to read an extract, I find I said upon Tuesday, 14th March 1837, in my place in Parliament, "This question can "only in justice be settled on the principle of established practice and long usage. It was on "the faith of these that an immense amount of capital has been invested, settlements and "mortgages entered into, and money lent. It was on this basis that the Tithe Act of last year "was passed. It was well known that the tithe owner had had the power to levy a higher "rate of tithe than at present existed; but it was equally well known that the tithe "payer possessed the power on his side to turn his arable to pasture, and so to diminish "his tithe about one half. It was this power on both sides that caused a middle course "to be struck out, and compositions to be entered into, which by the Act of last "year were to be respected and confirmed, except when fraudulent. In the Committee "on Agriculture in 1833 I well remember my noble friend (Lord John Russell) coming "down and saying that it would be positive confiscation, where there had been a long "and habitual reduction of the tithe to the extent of forty or fifty per cent., now to "legislate permanently on the basis of a reduction of only fifteen or twenty-five per cent. "The sentiment did honour to the noble lord, and it was on this basis that he carried his "tithe bill through the house last year. There are also powers on both sides in the case of "the church lessor and lessee, and especially there is an immediate interest on the part of the "lessor. The lessee has not invested his money solely on a rigid value according to the "tables, but on the customary terms of renewal, and on the bishop's interest to renew during "his lifetime. If the bishop is old, the lessee may hold out, and almost make his own "terms; the bishop on the other hand, if young, may refuse to renew, and run his life "against the lease. But practically this is not done once in a hundred times; and it may "fairly be inferred that the average terms for renewal are such as long experience has "proved are the best for both parties. It is on the basis of this long experience and of "custom that I wish to see this question settled; and there cannot be a better or juster "basis,

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" basis, because it has the sanction of the voluntary agreement of the parties chiefly interested. It is a basis also recognized by the law; manorial rights, market tolls, ferry dues, having frequently only this plea for their existence; nay, some will go so far as to say that even tithes can only be justified on the same plea of custom. I can adduce strong authority of the validity of this plea of custom in defence of customary enjoyments. It is well known that there are two species of copyholds, the lives under one being renewable by fines certain, the other renewable by an arbitrary fine. Now take the latter case. If any thing could apparently give to a man an arbitrary power over property which his ancestors had as it were leased to others, it would be the power that he reserved to himself and his heirs to impose what fine he or they chose on the renewal. But a custom having prevailed for a length of time as to the sum charged for renewing a life, what say the courts of law when appealed to in a case like this, if a grantor in his demands exceed the usual terms of renewal? Judge Blackstone informs us. He says of these copyhold fines, 'They are sometimes arbitrary, and at 'the will of the lord, sometimes fixed by custom; but even when arbitrary the 'courts of law, in favour of the liberty of copyholders, have tied them down to be 'reasonable in their extent, otherwise they might amount to a disherison of the estate. 'No fine therefore is allowed to be taken upon descents and alienations (unless in 'particular circumstances) of more than two years improved value of the estate. From this 'instance we may judge' (continues Mr. Justice Blackstone) 'of the favourable disposition the law of England, which is a law of liberty, hath always shown to this species 'of tenants, by removing, as far as possible, every real badge of slavery from them, 'however some nominal ones may continue. It suffered custom very early to get the 'better of the express terms upon which they held their lands, by declaring that the will 'of the lord was to be interpreted by the custom of the manor; and where no custom has 'been suffered to grow up to the prejudice of the lord, as in these cases of arbitrary fines, 'the law interposes with an equitable moderation, and will not suffer the lord to extend 'his power so far as to disinherit the tenant.' This, in principle and spirit, is a case in strict analogy with the present, for there is, apparently at least, an arbitrary power reserved on the one side, and there is long custom to set against it on the other, and the law determines in favour of custom."

3136. Where a custom is so variable as to be a year and a quarter, or a year and a half, or two years, do you think it is possible to set up any distinct custom which shall stand in the place of the law?—I am at a loss to see how the difficulty can arise. We know that precisely the same difference existed in the tithe case; that in Yorkshire the tithes were perhaps seventy or seventy-five per cent. of the gross value; that in Devonshire they were not more than fifty per cent. I might have been asked by your lordship, probably, how could the tithe case be so settled; and yet your lordship was probably a consenting party to that very measure. There was more difference, and a greater practical difference, in the customary payments with regard to tithes, than there is with regard to church leases.

3137. When you are talking of a customary payment, must it not be a customary payment time out of mind, and not variable once in seven years?—The observations that I made with regard to church leases as compared to tithes is made so much stronger by the principle involved in that question.

3138. But it is not the same principle, is it?—It is the same principle of customary payment. By the opposing interests of these two parties, in the case of tithes, there was a middle term as to the value which had been struck out. It depended a good deal upon the favourable position of the district for pasture. If it were a favourable district for pasture, the power of the tithe owner was comparatively small as compared to the power of the tithe payer. In Devonshire, whose soil and climate are favourable for pasture, he took advantage of his power; and he did convert so much to pasture that tithe owners became afraid that the whole would be converted to pasture, and then they entered into a compromise, and that compromise was often fifty per cent. below the gross value of the tithe; but in other districts a fuller value of the tithe, varying from fifteen to thirty per cent. short, was gathered by the tithe owner. In answer to the question recently put, I should say that there is no more difficulty in applying the principle of customary payment in this case of leasehold than there was in that case of tithes, but rather less difficulty.

3139. The question is, whether you can set up an absolute claim of right when you find there have been the variations which appear to have taken place, not only in the different parts of the country, but from time to time in the same parts and in the same property, although Parliament may think it fair, to settle a long disputed question, to take into consideration the different customs that have prevailed in different parts of the country?—In the instances of Durham, York, and Carlisle dioceses, fortified as their case is by the document to which I have so often referred, I doubt whether the claim would not amount to a legal one; but surely the equitable claim is so strong that it could not be resisted by Parliament. Of the southern dioceses I have no knowledge.

3140. Do you consider that there is no dormant value whatever slipping through between the two parties, but that the customary right, combined with the reversions, is equivalent to the whole fee simple of the estate?—I think I have been misunderstood; I merely have said that the customary right of renewal, if estimated by the tables, does with the reversion, as estimated by the tables, amount to the whole value of the fee simple. But I have admitted

that

that the marketable value of the lease often does not amount to so much as the tabular value (including customary right); that there is a difference; and that I believe to have arisen from the apprehension, on the part of the purchasers, of an increased fine, according to the improved value, which the lessor might impose. With respect to the security of the lessee's title being perfect, it would be impossible for me, knowing the power and the practice of Parliament of unsettling property almost every session, that I should state that there is such a thing as an absolute and a perfect security. All I contend for is, that the marketable value of these leaseholds in the North proves what perfect confidence the lessee has had in the continuation of his holding upon the same terms as he had hitherto enjoyed. And this is proved by that market value tallying with the tabular values, when they include customary renewals, short only the value of the lessor's right to charge fines on improved value.

3141. Do I understand you to say this, that the only difference between the marketable value of the lease and the tabular value arises from this, that there is the power of reckoning the improved value in fines?—Yes, if the customary expectation of renewal be included in the tabular value. But there is a tabular value of the naked term, without the customary right; that calculated gives a very wide difference. The following solution of some questions are illustrative of this difference.

Question: A.B. holds land worth, to let, 100*l.* a year, clear of all deductions, subject only to the payment at the end of every seven years of one and a half year's rent. *Query:* What is this tenure worth to A.B., estimating the land to be worth 28½ years purchase in fee simple, and supposing the next septennial payment to fall due at the end of three years and a half. Case 1.

Answer: The value in this case of A.B.'s tenure is equal to $22\frac{36}{100}$ years purchase = 2,236*l.*

Assuming, therefore, the privilege of renewal to belong to A.B., the remaining interest would be worth only $6\frac{14}{100}$ years purchase = 614*l.*

The value of the unexpired term of 17½ years is *by itself* worth $12\frac{99}{100}$ years purchase, or, in the case supposed, 1,292*l.*, and the remaining interest would then be worth $15\frac{65}{100}$ years purchase. Case 2.

These calculations are all made by the *three and a half per cent.* table.

Computing at *four per cent.*, the value of A.B.'s tenure would be $21\frac{37}{100}$ years purchase = 2,137*l.*; the value of the remaining interest $3\frac{63}{100}$ years purchase = 363*l.*; and the value of the unexpired term (17½ years) without the privilege of renewal at 4 per cent. is 12⅗ years purchase = 1,240*l.* The remaining interest would then be worth 12⅗ years purchase = 1,260*l.* Case 3. Case 4.

Converted into perpetual rent-charges, the remaining interest in the land would be:—

In case No. 1.	£21	10	0	nearly per annum	}	3½ per cent.
In case No. 2.	54	15	6	„ „	}	
In case No. 3.	14	10	5	„ „	}	4 per cent.
In case No. 4.	50	8	0	„ „	}	

I may state that it is remarkable, according to the tables, how very nearly the value of leases for lives and leases for merely twenty-one years, which seem so different in point of real value if their simple terms only are compared, approximate if estimated with the addition of the customary right. Thus, a twenty-one years lease in the case of a farm of 100*l.* a year, tabular value amounts to $22\frac{36}{100}$ years purchase, and in the case of a lease for lives the value amounts to 23⅓ years purchase. The market value also approximates in the North in the same way.

3142. Having regard to what you call the tabular value of the customary right and the market value, do you not say the only difference is in respect of the power of valuing the improvements?—I give it as my opinion, as the reason why the market value falls sometimes short of the full amount of the tabular value.

3143. If an Act of Parliament were to pass making that an absolute legal right which is now only a customary right, in your opinion would it not add one farthing to the value?—I do not think it would add any value to the property of the lessee, as it has been held hitherto, particularly before 1835. I do not believe that it would; because, except the one or two years purchase before referred to, I do not believe that there is a different value.

3144. I can understand the tabular value of a given term of years, but how can the tabular value of an expectation of renewal be given?—You can only do that by assuming that it will be continued to the lessee as hitherto.

3145. Is not that assuming it to be a legal right?—No; it is assuming the lessee has his lease renewed to him upon the same terms that he has hitherto had it.

3146. Is it not assuming therefore that he has a right to a perpetual renewal?—The perpetual renewal must be assumed in the calculation; but, indeed, a renewal for sixty or seventy years, and a renewal in perpetuity, are virtually of the same value, according to the tables; of so little present value are the remote fines of the lessor. I have here the solution of a question which shows the rapidly diminishing value of the lessor's interest very plainly. It is as follows:—

Question: If a fine of one and a half years rent be leviable on a farm of 100*l.* a year clear rental every seven years in perpetuity, and the first fine falls due in three and a half years; give the *present* value of each succeeding fine for ten renewals; and what would be the value of

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of those fines converted into a permanent rent-charge, to commence from the present time, and for ever; according to both the 4 and 3½ per cent. tables.

Answer: At 3½ per cent.

	£	s.	d.
Value of first fine -	132	19	6
second - -	104	10	5
third - -	82	3	1
fourth - -	64	11	2
fifth - -	58	4	11
sixth - -	39	17	9
seventh - -	31	7	0
eighth - -	24	12	7
ninth - -	19	7	4
66½ years, = tenth - -	15	4	6
	572	18	3
Value of the fines for ever	671	0	0
Equivalent rent-charge in perpetuity - -	23	9	8

At 4 per cent.

	£	s.	d.
Value of first fine -	130	15	1
second - -	99	7	2
third - -	69	8	4
fourth - -	57	7	6
fifth - -	43	12	1
sixth - -	33	2	8
seventh - -	25	3	4
eighth - -	19	2	5
ninth - -	14	10	8
tenth - -	11	0	10
	503	10	1
For ever - -	544	4	0
Equivalent rent-charge in perpetuity -	21	15	4

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3147. If you assume the privilege of renewal, does it not alter the whole character of the case, and is it not then a lease in perpetuity, subject to certain payments?—Yes, it is so; but that for centuries has been the lessee's tenure in the North.

3148. Then the only difference can be what you have stated as to improvements?—Yes; and the reason why I have urged the principle of customary payment so strongly, is, partly because Parliament has already sanctioned that principle through a committee on this very subject, and partly that there is the precedent of the Tithe Commutation; which, if right in the tithe case, should, à fortiori, prevail in the lessee's case; because, especially in reference to what one of the Commissioners has said, I would state, that there was a power before the Tithe Commutation Act of a revaluation of the tithes every year.

3149. Have not the tithes been raised very much more frequently than the rate of renewal upon leases?—Yes; and I say so much the stronger is the case of the lessees for a term, and in the case of a lease for lives stronger still, for the Church could not interfere or revalue more upon an average than every sixteen years in a lease for lives. Although the power of the Church existed, in the tithe case, of revaluation every year, yet to the tithe payer Parliament granted the privilege of a commutation in perpetuity upon the principle of present enjoyments, and on the basis of customary payment.

3150. In that settlement as to tithes was there not a power of adding a fourth?—There was a power given to the commissioners in case of any recent usurpation or fraud, which allowed them a margin of variation of twenty per cent. from the customary payment.

3151. Without there being any fraud, or anything of the kind, if the commissioners found the value such as not to represent the customary value of the tithes, had they not a power to add twenty per cent.?—I can only say, that I took part in the discussions on that bill throughout, and that the intention of it was that customary payment should be the basis of commutation.

3152. Were not the Tithe Commissioners to add the twenty per cent. if they found the payments actually made were payments much below the ordinary rate of payment in the district?—Yes, that I acknowledge. I acknowledge the twenty per cent. might be partly granted in order to bring individual cases in any district up or down to the customary payment in that district; because the fact of that payment not being usual, inferred perhaps some overreaching on one side or the other.

3153. And was not that about seventy-five per cent., the value of the tithe?—I admit also in many districts the customary payment had been seventy-five per cent. I only state, where it had been reduced to fifty per cent. by customary payment, that there the principle of customary payment prevailed, and that fifty per cent. of the tithe, instead of seventy-five, became in perpetuity under the Commutation Act the practice as to those payments.

3154. Do you use that as an instance in which Parliament did consider the customary right of payment with regard to legal dues as guiding and governing it in some degree in a particular adjustment between the parties?—Yes; and I think it is as strong a precedent as I can adduce in favour of customary payment being the basis of enfranchisement in the lessee's case, because his is really a stronger case; and I cannot think that Parliament can follow a juster precedent than that which has been established by the Tithe Commutation Act. I would also state again that the House of Commons has already in a measure sanctioned that principle as respects this measure, through the report of a committee; and I would again revert to the opinion given by the Real Property Commissioners, that there can be no better or safer mode of settling this question than upon the basis of present enjoyments.

3155. Do you conceive the importance of settling the question in regard to improvements becomes the greater in proportion as agriculture improves, and requires progressively a larger

larger outlay of capital to develop it to its full extent?—I think in some cases that that might be so; but, taking the average, I adhere to the opinion that I before expressed, that I do not believe, if fairly calculated, that the value to the lessor of that power to charge his fine upon the improved value is worth more than one year's purchase. I believe it in the estimation of the public to have been exaggerated into a year and a half or two years purchase occasionally; but strictly I do not believe, as it has been usually exercised, that it is worth more than one year's purchase to the Church.

3156. In case of any change upon this question, should you think it desirable to convert fines into reserved rents, and, if so, upon what principle?—I believe it would be best for the Church that the system of rent-charges should be adopted, varying I should say with the price of corn, and perhaps the best for the lessee; certainly the best for the Church, if the commutation in perpetuity took place at the present moment, and according to the present price of corn. It would, however, be the fairest method for both parties that the rent-charge should fluctuate with the price of corn. It is of great importance, however, to ascertain a fair basis on which to strike the corn averages. Going seven years back would not now be fair. A great many modes have been suggested of instituting such a rent-charge in lieu of the present fines,—some of them, as it appears to me, most preposterous. There are a number of modes stated upon a printed paper I hold in my hand. These are the plans suggested,—the Irish Act, Lord Monteagle's, Mr. Bethune's, the Ecclesiastical Commissioners, Mr. Lefevre's, and Mr. Ansell's. I will not say anything on Mr. Lefevre's, as he is a member of the Commission; but Mr. Ansell states that on a lease for twenty-one years on which the fines have hitherto been equal to an annual payment of 32*l.* a year, the perpetual rent-charge should be 66*l.* Perhaps that may be so according to the tabular value of the mere term, if you assume that the previous fine has been 32*l.* a year; but I should wish to draw the attention of the Commissioners to this fact, that in all these cases that I have seen of rent-charges they are made to appear as if they merely constituted the amount of the fines hitherto levied, with a fresh sum added to them as the price of enfranchisement; their process, however, I fancy, is to calculate the value of all fines in perpetuity, and call the result the value of the fines previously paid; which system of calculation, if followed, would make the lessees pay the value of all future fines at the present day: whereas the lessee on a twenty-one years lease with one and a half year's fine has been in the habit of laying up not more than 19*l.* or 20*l.* a year to meet his fine of 150*l.* at the end of seven years. The rent-charge in such a case would very likely amount to something like (according to that mode of calculation) 26*l.* or 28*l.* as having been equal to the annual payments which have hitherto been made; but in practice it is no such thing. I hold the right principle of commutation is not to make the lessee purchase the value of all future fines, and converting them into a rent-charge, and making that appear to be the value of the fines hitherto paid, for it adds at least a third to them; the fair principle appears to me, in calculating what has been previously paid, is, either to take what the lessee has practically laid out, which, in the case of a twenty-one years lease renewable every seven, and a one and a half years fine, is from 19*l.* to 21*l.* per annum, according as you allow interest or you do not allow interest; and in the case of lives varies from 9*l.* 10*s.* to 14*l.* according as you allow interest or not; that that is the only fair mode of estimating what has hitherto come out of the lessee's pocket. Having said that, I will state, if you consider the extraordinary length of the tenure of the customary right of renewal, that in equity you can take in the commutation or the enfranchisement no more than the value, whatever it may be, of that dropped interest which consists of the power of the lessor to charge a fine upon the improved value. Although I should state that that is the only fair mode of commutation, still as the lessee has been driven into a corner by Parliament, and as Parliament granted to the Ecclesiastical Commissioners in 1835 a power which it never, I am sure, at the time it granted the power, intended to be exercised as it has been exercised, I do not at all say that it is not worth while to the lessee to consent even against equity, now that the value of his property has become by parliamentary interference unsettled,—that it would not be to a certain extent his interest graciously to accede to terms which, I think, are beyond what are fair, if you consider the remarkable feature of the document from Durham, the precedent of the tithe commutation, the recommendation of the Real Property Commissioners, or the Report of the Parliamentary Committee of 1839.

3157. Are you not aware that, besides the power of adding twenty per cent. in tithe cases, there is a power in particular cases of neglecting past compositions altogether, and proceeding by valuation and comparison?—What I contend for is, indeed what I know is, that customary payment was the principle of the Act, and that the twenty per cent. was included in the Act for the purpose of bringing particular cases within the margin of the customary payments of the district. I beg to state, since some importance seems to be attached to the case of the Tithe Commutation Act, that it is most important to remember that in consequence of customary payments having been the basis or principle of that Act, to be varied only in special cases, that in consequence of that having been the principle of the Act, the commutation has actually taken place upon the average, not giving a greater rise to the whole tithe payment of the kingdom than of two and a half per cent.

3158. When you use the word "average" are you aware that the Tithe Commissioners have found cases where for arable land the average payment has been 18*s.* an acre?—If such is the case, I presume that would have been the custom, and that it grew up from custom.

3159. Are you not aware that the reduction of those payments went a long way to bring up the payment to the average to which you have referred?—I contend that the main prin-

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ciple of the Tithe Commutation Act was that of customary payment. If in practice it has been otherwise it is in contravention of the intention of the Act.

3160. What do you suppose would be the average if we were to put the northern and southern counties together, and then take the average?—I object to all averages in such cases, as contrary to justice. With regard to the Ecclesiastical Commission, if I may be allowed to state it, my firm conviction is that Parliament never could have intended to sanction such terms as they are stated to have imposed upon the lessees who have happened to fall within their power. It appears to me the Ecclesiastical Commissioners, finding themselves possessed of a great power (who the members of the Commission are I am perfectly ignorant) have acted without any reference, if I may so state, to the principle of doing as they would be done by; they have not put themselves at all in the place of the lessee; they have merely, finding a naked power in their hands, exercised it with the utmost stringency to extract all that dogged and rigorous law would give them from the lessee.

3161. Have you any plan of conversion into rent-charges to suggest?—Some plans have occurred to me. But I would premise by stating that it appears to me in making the commutation that it would be unfair to say, in reference (for instance) to a lessee with old lives in his lease, that you will calculate the value of his bare term at the present moment by the tables; and that you will give to a lessee with better lives also the value of his term, because all that the different state of their lives really proves is this, that the one having bad lives had a greater confidence in the Church and the continuance of his tenure than the other. A lessee who took fright thirty years ago will have secured to himself very good lives against such an occasion as the present; and he may have fortified his position by having put in the best lives. But I know in the case of yeomen who are great holders of this kind of property in the North, from its paying a better interest than freehold, that they have never been particular as to the mere age of the life; they put in perhaps themselves; they say, "I do not want to "pay this fine again during my life; I will put in myself;" the age being perhaps thirty-five or forty, and he may have great confidence in his own good fortune in living. But another man may say, "No, I will go and put in that life which by the actuaries is considered the "best, and I will fortify my title by having the longest possible right of possession according "to the tables." And if you take the mere value of the term contained in each of those leases at the present moment, I think that you will be doing a great injustice to the holder of the old lives, because it is his greater confidence in his tenure and the Church's good faith that has made him more neglectful of his lives; and because if you calculate the value of two leases, one with the worst possible lives, that is to say, lives of forty-eight, fifty-seven, and eighty-five, which are as bad lives as you can imagine in a lease for lives, and a lease with lives fifteen, thirty-five, and sixty-five, which would be about the average of lives now existing of a well regulated lease, of a lessee who had had an apprehension of his tenure,—if you calculate the value of those two leases, including the customary right of renewal, they are of precisely the same value according to the tables; there is not half a year's purchase between them. But if you value them according to the value of the mere term, one perhaps is worth fifteen years purchase according to the four per cent. tables; the other perhaps may be worth nineteen, twenty, or twenty-one years purchase. I do not think it would be a fair thing when Parliament interferes in this case, that they should pull up a lessee on a sudden in that way: they either should give him, in a lease for lives, if they calculate by the tables, the benefit of the value of (say) one renewal, or allow him the old market value of his lease. If they give him the benefit of one renewal, it is but a species of fair notice of their intention; or in a case of leases for terms, they should at least give him fourteen years notice, or the value of two renewals. I merely state that as preliminary; that I should protest in justice against taking advantage of the mere existing state of the lives in a leasehold, because I am quite sure that the persons who have the worst lives are those who have had the greatest confidence in the good faith of Parliament and the Church, and that I do not think that for that confidence they ought to be punished; and I should equally protest against the bare term of the lease determining its value.

3162. And do you take it as a basis also, that such terms of years being brought into the market should be of the same value?—Mr. Aglionby stated, that such had been his confidence; that with regard to twenty-one years leases, in his own case, in five cases out of six, he never inquired the number of years that had to run in the lease. All that the lessee has felt in the case of either property, leases for lives or leases for terms, is the nearness of the time when he will have to pay the fine; that is, whether he will have to pay a certain sum a few years earlier or later.

3163. The only difference being the possible anticipation of that sum, or the postponement of it, and the rate of interest thereon accruing?—Yes, that is the only difference. I will give my own case as an instance. I bought a lease for eighteen years purchase; there was an old life in it; I think he was seventy-four or seventy-five; and that life, according to the tables, would have been considered as gone, he would have been no life at all; they would have given virtually nothing for that man's life. I bought that estate three years' purchase cheaper than I should have done if that life had been renewed; in other words, the fine added to the price made what I have paid, at the rate of twenty-one or perhaps twenty-two years' purchase; that was all the calculation that took place. It never occurred to me to suppose that the lease would not be renewed; I should shortly have to pay some 700*l.* or 800*l.* fine, and therefore I gave that sum short. Then with regard to plans of commu-

commutation, this is one mode by which you might do it; I think it is a clumsy mode. You might estimate the interest of the reversioner and the lessee by the four per cent. table, presuming the continuance of the customary expectation of renewal; then by the same table calculate the value of the lessee's bare term, and divide the difference between the lessor and the lessee, in the proportions of their interests as given in the calculation, which presumed the continuance of the customary expectation of renewal. I do not offer that as more than one mode, and as tallying closely in its results with others that follow.

3164. You do not in that mean the marketable value?—I say nothing there about marketable value.

3165. But you are presuming a perpetuity?—Yes.

3166. Is this it: perpetuity, and then split the two, and see what the proportionate values are, and then take the value of the actual lease, the bare term itself, and then divide the difference between those two, the perpetuity and the bare term, in the proportions which the two parties have by the table?—Yes. There is another plan; to find out by inquiry the average fines practically paid, whether for terms or lives; convert them in each case into years purchase at four per cent.; deduct the average fines from the freehold, then deduct the average market value of the leasehold in each district, and divide the remainder between the lessor and lessee in proportion to their interests, the lessor's portion to be added to the average of the fines; that, as far as I can make out, is as nearly as possible what Mr. Aglionby proposed in his evidence the other day.

3167. Would not that create a sum in gross, and not a rent-charge?—I intend the whole to be converted into a rent-charge. Then there is another mode; I do not say how far it would be equitable to the lessee, nor do I say that I admit it as strictly just; but at all events, I should hope that the terms would not be exceeded. You might, without any rigid calculations at all, state, there is a present power in the Church to increase the fine according to the improved value; the present value of this power indeed vanishes very much at fifty or sixty years distance, if at anything like the customary rate; and the Church having been at least a century in increasing its fines to the extent of half a year's rental, and presuming also that the Church, unless Parliament had interfered, would not have acted more stringently for the future than it has done for the past, and that it would not have increased its fines more than half a year's rent in the next 60, 70, or 100 years, you might say, We will add half a year's rental to the usual fine, and add that to the average of the money usually laid up by the lessee in order to meet his fine; that to be a permanent rent-charge on the leasehold, and the final price paid for a permanent commutation.

3168. As it appears that a great number of the deans and chapters take two years fine, would you put half a year to that?—I am only speaking of the North; I have no knowledge of the South. There is another plan intermediate. Supposing you assume the value of the Church's power to charge the fine on the improved value to be equivalent to two years purchase, although I put it only at one, you might add those two years purchase, or the value of those two years purchase, to the sum usually laid up by the lessee to meet his fine, and then two years purchase would be the price that you would charge for enfranchisement or commutation, and that at four per cent. added to the rent-charge. Perhaps, however, the following is the simplest plan of all. It would, I fear, scarcely suit, and fall very hard upon the South, nor do I know whether it would be acceptable to the North; I speak only for myself. Personally, I should myself be not unwilling, considering the corner I am driven into, that this plan should be carried out. It neither consults tables nor anything else, but it supposes a want of money by Parliament for Church purposes, and a power to enforce the supply of that want, and is stated simply thus: The lessee has been in the habit of paying, on an average of years, such a fine; you know that the Church has power to charge on improved value; and you know that in the present state of the public mind you wish a settlement of the question, and therefore we do not think it very unreasonable you should be called upon to pay half as much again as you have practically laid up for fines hitherto. The practical effect intended by this plan would be to divide the average fine in each district by seven, in the case of a twenty-one years lease, renewable every seven years, and by sixteen in the case of a lease on three lives; and thus constituting an annual payment; and to the product you would add in each case half as much again as the sum laid up for the present average fine, which would be the price to be paid for conversion into a perpetual rent-charge, fluctuating with the price of corn. The result is, and would be, that in the case of a farm of a clear yearly rental of 100*l.*, the lessee at present laying up, say 20*l.* a year (if interest is reckoned, which in this case it ought to be, it would be only 19*l.*) to meet his fine of one and a half year's rent at the end of seven years; 20*l.* a year out of 100*l.* is all the Church now, upon the average, practically receives. Add to this 20*l.* half as much again as the price of the permanent settlement; this would give 30*l.* of perpetual rent-charge, in lieu of all other future payments and fines, for a lease for a term of twenty-one years renewable every seven years, with a fine of one and a half year's rent. In the case of leases for lives in a farm of similar value, one life falls in upon the average, it is said, every sixteen years. The fine is calculated, I believe, usually by the five per cent. tables, which gives an average fine of two and a quarter years rent. The lessee in this case, by laying up, say 14*l.* a year (it would be only at 9*l.* 10*s.* if interest were reckoned), would meet his fine, at the end of sixteen years, of two and a quarter years rent. 14*l.* a year out of the 100*l.* is therefore all that the Church now practically receives, upon the average, from this kind of lease.

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Add to this 14*l.* half as much again as the price of permanent settlement; this would give 21*l.* as the perpetual rent-charge for a lease on three lives; and it must not be forgotten that a lessee at present, by insuring his lives, can secure sufficient to pay each fine for 4*l.* or 5*l.* a year. Were it even 10*l.* he has at present the beneficial enjoyment of nine tenths of his leasehold, or 90*l.* out of his 100*l.*; and when he does not insure, and lays up 14*l.* a year, he has the beneficial enjoyment at present, and has had for centuries, of at least seven eighths of the whole 100*l.* By the plan last suggested the revenues of the Church from this species of property would be increased about one half, or from 261,000*l.*, the estimated value in 1837, to 391,500*l.*, which is an increase of 130,500*l.* per annum,—a very handsome addition, as it appears to me, to Church property, and one which might be made very available in supplying the growing necessities of the Church,—and an addition equal, at twenty-five years purchase, to 3,287,500*l.*, and, if estimated at twenty-eight years, an addition of near 4,000,000*l.* I am sure, in suggesting such terms, I am admitting more than in strict equity I ought to admit.

3169. But still, under the circumstances of the case, would you state that that would be a satisfactory settlement?—Speaking of myself individually, I should not object if it were so settled; and I think it would be a plain and obvious mode of settling the question, and one which the lessees would understand. It certainly would not be suitable, however, to the South, and perhaps therefore the plan of charging not more than two years purchase as the price of enfranchisement, or of a permanent settlement, and converting that into a rent-charge at four per cent., would be generally the most equitable and acceptable plan.

3170. Would you rather leave it in the shape of augmentation of fines than an equivalent substitution by way of rent-charge?—No; I would convert the whole of this into a rent-charge at the present moment, but I would have no re-valuations. In the North our confidence has been such that I do not think there has been much difference, if any, that I can perceive, in the cultivation of leasehold and freehold lands; certainly my own leasehold farm is the best cultivated farm upon my property. But in the South, where there appears to have been a different spirit prevailing, it appears that the same principle applies here as there did in the tithe case; that the settlement was made permanent for the sake of the public interest; that the tenants in possession might have the strongest interest to extract as much as possible out of the soil.

3171. Would there not be this difficulty: Seeing that the different chapters, according to the mode of valuation of the different surveyors, would put an unequal annual value upon the same property, and that in a great number of cases two years fine is taken, a year and three quarters in others, and a year and a half in others, that it would be inequitable to apply the same rule?—The answer I should give to that is, that men who have been accustomed to certain terms have probably bought under those terms. Their money has been invested in the South at a different rate from what it has been invested in the North; and to apply the same rule to the North as you might to the South would amount to confiscation. Where there has been any late increase in the fines, whether in the North or South, it would certainly be hard and unjust to exact in such cases the same rigid amount for enfranchisement as in other cases.

3172. Without applying the same rule, do you see any injustice in striking off some of the cases at the extremes of each?—When I alluded to the above plan, I began by saying I was afraid that it might fall hard upon the South. In the North I do not believe that it would be strongly objected to; but I would beg, as it was a plan that originated with myself, to speak of it only in reference to my own opinion of it. I have no doubt, however, of the injustice of all averaging, *i. e.*, by adding in some cases and reducing in others; you might as equitably average the cases in the Queen's Bench.

3173. The effect of your plan would be, would it not, that the advantage to the lessee would be greater when there had hitherto existed a greater certainty of renewal?—Yes, certainly.

3174. You have stated that you would have no fresh valuation, have you not?—I did not say I would not have a fresh valuation now. I do not mean to say I would not have a fresh valuation now, although I see no particular use in it; but I would not have them hereafter. It would neutralize one main public advantage of the commutation. I may state in addition to what I have said, that I hear another plan has been suggested, of the following kind: In the case of leases for terms of twenty-one years, on the supposition of a two years fine having hitherto existed, leases, if renewed at the end of seven years, with a two years fine, would return the lessee seven per cent. for his money. It is proposed that in future half the fine, computed as above, shall be paid in money, and that seven per cent. should be charged on the other half, by way of rent-charge, until such increase of rent-charge amounts to fifty per cent. upon the rental; and thenceforward the lease should be renewed at one year's fine every seven years for ever. Thus, suppose an estate to be worth 100*l.* a year, the terms of renewal at the end of the first term of seven years would be 100*l.* down, and the reserved rent of 7*l.*, and after fourteen years another 100*l.* down and a rent-charge of 7*l.* would make 14*l.*; and so on, until the rent-charge amounted to 50*l.*, after which a perpetual right of renewal would be established, at one year's rent every seven years for ever. The following is the tabular solution of the effect on the lessee's interest of such proposition: "Question: "A. B. holds a lease for twenty-one years of freehold land, worth 100*l.* a year; what is the

"value

" value of his tenure, and what the value of the reversion, computed at three and a half per " cent.?" What follows is the value of the bare term, and not including the customary right. " Answer: A. B.'s lease is worth 1,469*l.* 16*s.*, the reversion 1,387*l.* 6*s.*, making altogether " 2,857*l.* 2*s.*" " Question: If A. B. obtains the reversion, in consideration of a fine of 100*l.* " payable once in seven years for ever, in addition to a rent-charge of 7*l.* payable after the " first seven years, to be increased to 14*l.* after fourteen years, and to 21*l.* after twenty-one " years, and so on till the rent-charge amounts to 50*l.* or half the annual value, what is the " present value of what he would thus engage to pay for the reversion of the estate? Answer: " The present value of 100*l.* payable every seven years for ever, at three and a half per " cent., is 367*l.* 8*s.*; the present value of the increasing rent-charges, 589*l.* 9*s.*; that " amounts to 965*l.* 17*s.*" The lessee would obtain his lease for 965*l.* 17*s.*, versus 1,387*l.*, which is the value of his mere term. The rent-charge would be, according to the three and a half per cent. tables, somewhere about 33*l.* 16*s.*; and according to the four per cent. tables the rent-charge would not be, I believe, much beyond 30*l.*, 31*l.*, or 32*l.* So that in practice I do not believe, supposing this was a favourite plan, that this would give to the Church permanently more than that which I have proposed by the plan which I think the simplest; but it would be an extremely objectionable mode, I think, to the lessee, because it would be a species of bribe to the lessee in possession versus his successor, who would feel always approaching the time when half the fee simple of the estate would be gone from him; and although, according to the tables, he might be told that 965*l.* 17*s.* had not been a heavy price, he would feel that his predecessor would have had great difficulty in realizing that value. I asked the question of Mr. Morgan, how he could realize it, supposing that plan to be a favourite one (and I must remind the Commission that this plan does not at all include customary right); his reply was, the lessee would find it extremely difficult, and almost an impossible thing, to realize to himself in any permanent and palpable form that improvement of the bargain on the bare term.

3175. Do you see any objection to that, among others, being offered as an option?—I can only say, if that was offered to me along with the terms I propose, even though according to the tables, they would not, I fancy, differ greatly in value (but this is only surmise), I myself certainly would prefer that which I have called in my answer the simpler plan. I do not know that I have anything more to add with regard to plans of commutation. I have endeavoured to think over as many as I thought would not be very unreasonable. I may be permitted to state, perhaps, that I am as fully, I hope, alive to the perfect insignificance of material interests, compared with spiritual ones, as most men; and if the question was, that there were no other sources from which to extract funds in order to extend the benefit of spiritual blessings to all classes of the people, I should be willing, as an individual, to submit to having funds taken for this sacred purpose from my property. But I do not see any reason myself why, because Parliament happens to want a fund for the prosecution of that essential interest, why the lessees, contrary to all confidence, and contrary I should say to public faith, should be made the only victims of that want on the part of the public. I should wish to add also one word on the subject of the lessees of tithes. It has been suggested that Parliament might be disposed, or the Commission might be disposed, to take a different view with regard to the leases of tithes from that taken of leases of land. I have no interest whatever in this case; but I confess I can see no reason why a different course should be pursued in the two cases; I merely contend for the general principle. Why, when the Church has exonerated itself from tithe generally, Parliament or the Commission should refuse to consider the customary terms of renewal in the case of tithes, if the customary terms are to be considered in the case of land,—why the same principle should not extend to tithes I cannot conceive. It appears to me that tithes having been, as it was supposed, a great bone of contention with the laity, and a consequent injury to the Church, a mode of teazing the public, if I may so express it, that the same principle would apply to the Church collecting the tithes which they now let on lease, as it did under the old tithe system. I may state that it would operate just as prejudicially to the interests of lessees whose property is bound by settlement and incumbrances, not to have their leases of tithes renewed, as it would to lessees of land not to be granted their renewals. I have here a letter from a noble lord, which says, " I enclose a " statement which I have thought desirable to be placed in the possession of the Commis- " sioners relative to leaseholds under the Church. It was brought under my consideration " in consequence of an opinion that it is the intention of the Ecclesiastical Commis- " sioners to deal differently with leases of tithes, and those of other estates. I can vouch " for the truth of the case, as A. B. is a connexion of mine, and I am one of the trustees " of his marriage settlement." This case is, I believe, the case of a gentleman living in Yorkshire. " A. B. is the present lessee of church tithes, the leasehold having been " devised to him by the will of his father, and to the father by the will of the grandfather, " the original purchaser thereof, and has been retained by subsequent renewals. Previous " to the marriage of A. B. the tithe lease was placed in trust in the settlements, as an " additional security for jointure and provision for children, with power for the trustees " to provide for renewals from time to time. From whence it will be evident that if " the interference of the legislature should compel the lease to run out, not only would " extensive and irreparable injury be caused to A. B. and his successor, but the interests " of those parties, which have hitherto been supposed to have been safely guarded by such " additional security, may be very seriously affected. If, notwithstanding the objections " which may be urged, the legislature should decide that tithe leases should be allowed to

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" run out, an additional hardship would be inflicted upon A.B. from the following circum-
" stances. The lease is for twenty-one years : such lease, in consequence of the restriction
" imposed by the Act 6 W. 4. cap. 20., cannot be renewed until seven years shall have
" expired; the seven years will expire in August next, and A.B. may before that period be
" thus deprived of the benefit of a renewal, for which application has been made, and which,
" judging from the tenure of so many past years, he can have no reason to doubt would be
" granted." I would add, that that forms a strong argument, as it appears to me, in favour of the suggestion I made in case tabular values were to be merely taken, that the lessee should have in the calculation the benefit, in the case of leases for lives, of at least one renewal, and that lessees for terms should have the value of two renewals allowed them.

3176. Do you mean that some compensation should be made in that respect?—Yes, that some allowance should be made in cases of this kind.

3177. Is not the case referred to that of a lessee of tithes of a district in which there is a town of 10,000 inhabitants?—I am not prepared to say. As I have stated, I was not a lessee in 1837, when I first took the strong interest I do in this matter; and, I may now add, the reason why I took that interest, without having any personal feeling, was this: that I have always taken a strong view with regard to the change that took place in 1819 in the value of money, and the ill effects of it; and that Parliament I believe did it in complete ignorance of its real nature. And in any proposal for a great change in property I always determined, if I had anything to do with it, to be extremely careful as to the real practical effect of such measure on the interest of the parties in the previous enjoyment; and that was the sole principle I had in view in dealing with that question in 1837.

3178. By your plan do you suppose the dominion of the Church, upon these precautions being taken against any improved value, to be so absolutely gone from it, as that, in case of an entire change in the appropriation of it, there should be no power of revaluation as to its then value?—I think that there is no doubt the moral effect would remain of the Church being landlord; and I do not know that they have much more than the moral effect at the present moment, as their power has hitherto been exercised in the North; and it appears to me, if you go after the commutation upon the principle of revaluations, you will create the most formidable impediment that you have in your power to create against agricultural improvements.

3179. Putting aside merely agricultural land, supposing the property were altered altogether in its destination, that instead of being agricultural it should be employed either for canals, or railways, or buildings, or any other purpose,—purposes for which a lessee is not able to assign at present an adequate length of tenure with the consent of his superior landlord,—should you then consider that the Church, as superior landlord, might not have a consideration for the consent which it might then be called upon to give?—Although I professed only to speak as to arable land, and as to the custom of the North, when I first set out, and do not now pretend to do more, I cannot conceal from myself that a case of house property might be a very different thing from that of merely arable property and building ground. I cannot myself conceive in principle why it should be very different from the building ground of any other proprietor, where the leases are so long as some forty or sixty or ninety years, unless the custom has been widely different.

3180. Are you not aware that land is constantly, in the neighbourhood of great towns, passing from one condition to another; from being first accommodation land, then perhaps nursery ground, from nursery ground to building ground, and so on?—I am.

3181. Are those cases which rather go, in your opinion, beyond the principle of common improvements to which your previous evidence has referred?—Yes. It is just possible that it might not be unfair to take a certain radius from the centre of a large town, and to say that within that radius the principle of commutation I have been recommending shall not apply; that if it becomes building ground, another principle shall prevail. By such a provision the injury that I wish to avert in any plan of commutation would not occur. The lessee indeed would be denied reaping a new advantage; but his old beneficial interest would not be disturbed.

3182. Or should you be of opinion that some tribunal might say that the ordinary principle will not apply to this case, and that it must be excepted?—In all these cases the more you can have them settled by local tribunals (by which I mean tribunals sitting in the districts to be affected), and by the principle of customary payment, the more you will do that which I think is most in accordance with justice and equity.

3183. Have you anything further that you wish to add?—I have gone very much in my examination on the strength of the lessee's claim from the length of his tenure, and that it approximates in my opinion virtually, in the North, to a legal right; and I wish to fortify that opinion by the opinion of Sir William Follett, who, after having spoken in the House of Commons in 1837 at considerable length as to the nature of the tenure, goes on, and says this: " I will not say it is a legal right, but what is in my esti-
" mation tantamount to a legal right, against the will of those parties, without their consent,
" and without examining into the nature of their property, but for some other purpose, this
" House should be called upon to pass a general law depriving them of their tenure. Upon
" these grounds, if there existed no others, I object to this motion."

3184. What

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3184. What motion was that?—That was upon the church-rate question, when the case of the church lessees was raised, on March 14th, 1837. I wish to add to that, and to state Lord Stanley's history of the Irish Church Temporalities case, he being the minister in office at the time by whom that Church Temporalities Act was carried into law. What he says so strongly supports the claims of the lessees that I should like to append it. It is as follows; "In passing that Act we took especial care to regard the interests and privileges "both of lessees and lessors of church lands. With regard to lessors, we declared that, in "conformity with what had been done as regarded lessors in England, they should not "enforce any claim upon the existing tenant for accruing interests, provided the lessee was "ready and willing to continue his lease on the existing terms. Otherwise we left them "free to renew the leases to their lessees on the present footing, if they thought proper. "We did not interpose between the lessors and the lessees another body in the shape of a "Commission appointed by the Crown; we enabled lessees to accept the renewal of "leases, and the Church to grant them, at fixed rates of payment, if they choose; and we "left them as between themselves to the ordinary remedies between landlords and tenants, "without attempting to set up any pretence at controlling authority or interference. "With regard to the lessees, the course which we then pursued was not only different but "diametrically opposite to that proposed by the present resolution. We made no attempt "to impose compulsory terms of renewal upon them." * * * * "Why, "this property is considered so secure that it is notorious that freehold property intermixed "with it is often purchased by the same tenant for the purpose of joining them into one "estate." * * * "The Attorney General admits that the drawing-room of "a lessee sometimes happens to be on church lands, and the dining-room on other lands."

3185. Is there any feeling in the North against refusing to renew?—In the North it would be considered a most unusual thing. It is a matter unheard of in the North, except under the most peculiar circumstances of neglect to renew on the part of the lessee.

Thursday, 28th June 1849.

J. A. Smith, Esq., M.P.

28th June 1849.

John Abel Smith Esq., M. P., examined.

3186. I believe you have given a good deal of attention to the subject of Church leases?—I have, in a general way. I have felt a great interest in the subject, because the constituency I represent is so very deeply interested in the matter. Almost the whole circle of land round Chichester belongs to the Church, and the tenure at present existing is so great an impediment to improvement that it has naturally become a subject of great interest to me, and I have therefore paid a good deal of attention to the subject in a general manner; but before I say more, perhaps it is due to myself to beg the Commission to understand, that in coming here to give evidence I am obeying what I conceive to be the wish of the Commission, as I think it would have been presumptuous in me to tender evidence on a subject the difficulties of which I feel very strongly, and which I feel deserve a much more minute and accurate attention than my constant occupations enable me to give to it. I am very happy to say anything I think, or to give any information I possess; but I do not know the subject sufficiently in detail to have thought myself at liberty to tender my evidence to the Commission.

3187. Will you give us your notion of the principle on which you think an adjustment might be made of this question?—What I should feel desirous to begin my observations with would be by remarking on the strong conviction I entertain of the advisability of some settlement of the question, by an arrangement between the lessor and the lessees of church property without further delay, not less in reference to the interests of the Church than the interests of the lessees. I do believe that in various parts of England the existing system is exciting feelings very strongly at variance with the best interests of the Church; and I also believe that if the Church were to run out the leases, and the whole property were to become their own, it would be so dangerous a position in the present state of the world and society in England that their continued possession of it would be exposed to risks which the best friends of the Church would not wish to expose it to. With regard to the mode of settlement, I have, as far as I can, examined and considered a vast variety of schemes for arriving at that end, which, both publicly and privately, have come to my knowledge; and I confess that the difficulties that present themselves when one goes into an examination of those complicated and difficult points of "lapsed value" on which so much stress has been at all times laid by those who have gone into the subject, make me almost despair of getting at any result which would be generally satisfactory; and I therefore am very much disposed to think that the simple and straightforward way which an individual would use in settling a question of that kind, if the property belonged to himself, is the one which, in dealing with it publicly, will ultimately be found to be most practicable. I mean that I would take the same rate of interest which would be considered fair both to the Church and to the lessee, and I would take by the books the value of that interest on each side. I am myself

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myself much disposed to believe that the rate of four per cent. would be a fair rate to allow in such a calculation as that; and afterwards I will give the reasons for thinking *that* a fair rate. I should take the interest of the lessor and lessee at that rate of interest, and should convert it into a perpetual rent-charge at the same rate of interest, and I should then deduct from the Church's interest in the lease such a sum of money, or such an amount of rent-charge, as would be equivalent to what would be thought fair to allow for the right of renewal. I believe that the practice of the ecclesiastical bodies in the different dioceses has been so very various, and the value which has been given or attached in the minds of the lessees to the expectation of renewal is so very various that it would be impossible to adopt any one uniform scheme which might be fairly applied in all the districts; for instance, it would be obviously, in my opinion, unfair to give the same terms to a church lessee in Durham as in Chichester; and I do not believe that either the expectation of the lessees will be fairly satisfied, or due justice done to the Church, unless whatever value it may be thought fair to give to the lessees in exchange for this expectation of renewal should be fixed by somebody to be appointed, taking evidence in the different dioceses. I think the rate of interest at four per cent. to be fair, because it is a medium term between the five per cent. and three and a third per cent. tables. I think the five per cent. tables would give too much to the lessee. I think the three and a third per cent. tables would, under the circumstances, give too much to the Church, because, although I feel very great difficulty in explaining it in detail, I cannot but feel that the interest of the Church is a reversionary interest only, and therefore ought not, perhaps, to be taken at the same value or calculated in the same manner as the present rights of the tenant in possession.

3188. Do you use the words "right of renewal" advisedly, or do you consider it more than an expectation of renewal?—I ought probably to have used the words "expectation of renewal;" but though I cannot assert it to be a legal right of renewal, it is a custom of renewal practised invariably for so long a period of time (not less, I believe, than 300 years) that I think it could not now be refused without committing a great moral wrong, of which the lessees under the Church would have good reason to complain. It follows from this, that I think the Ecclesiastical Commissioners indefensible in refusing to renew the leases of property now vested in them, and that their conduct ought to be no precedent for this Commission.

3189. Have you formed any opinion as to how you would arrive at the value, or the equivalent to be given for that expectation of renewal?—That is extremely difficult to answer; and it is very difficult to state any precise or satisfactory mode of arriving at any result. I cannot help, however, believing that some guide—I am aware it would only be a general guide—might be given by the market value obtained for Church leaseholds in the different districts. I have no doubt whatever that there has been a value given for that expectation of renewal in all parts of England. I believe the value given for it varies in all parts of England, and is much higher in the North than in the South; but I cannot doubt that *some* value has been always given for it. If I am accurately informed, and I believe I am, probate duty is exacted for that value of renewal in addition to the tabular value of the lease in case of wills, which would give a strong confirmation to my impression that the expectation of renewal has a certain monetary value.

3190. Is it within your knowledge what that expectation is valued at in your part of the country?—I do not believe that it is so valued that any body could give a distinct and definite answer to that question.

3191. By years purchase, you mean?—There may be some surveyor or land valuer who, in his own mind, in making his valuations, has affixed some definite value to the expectation of renewal; I cannot say that he has not; but I feel persuaded, in a long course of years the right or expectation of renewal has acquired a certain value; that it is an indefinite and indistinct thing, but still that it is an absolutely existing fact more or less in all parts of England.

3192. Do you rest any part of your argument or views upon the assumption of the fact that legacy duty is payable upon it?—No; all I meant was to use that fact in confirmation of my own view.

3193. Does part of your argnment or view rest on that?—Not the least; I only meant it in justification of my own opinion as confirmed by a government office.

3194. Do you use it as showing the possibility of valuing such expectation?—Yes.

3195. Have you any remarks to make on any of the plans which have been suggested for the settlement of this question, and particularly the anonymous ones, or any of them?—There is one plan certainly which, from the quarter I heard of it, would attract my attention and notice in the most respectful manner, and to which I gave as much consideration as I could; it was a plan which suggested the substitution of an interest at seven per cent. for half the fine in all future renewals. I presume it was a part of that plan (for I do not think it was very distinctly stated, or I do not recollect it,) to reduce ultimately all tenures to leases for years; and that on each period of the renewal fine being payable half the fine should be paid in money as at present, and half the fine should be converted into an annual payment or rent-charge at the same rate of interest at which the fine was calculated. What I mean is, in the case of a property of 100*l.* a year, held for a twenty-one years lease, renewable every seven years, the present practice being that a fine of two years value, or 200*l.*, should be paid

paid every seven years; the plan I saw suggested was, that in future the fine should be 100*l.*, and that a 7*l.* ground rent at each recurring period of seven years should be imposed on the property, until that 7*l.* in the course of renewals amounted to half the annual value of the land. With regard to this proposal, as compared with any such scheme as that which I have suggested, as a mere money question to the lessee, it would be a matter of calculation for an actuary, on which I have no observation to make. As a mere money calculation it may or may not be unfavourable to the lessee; but having thought it over very seriously, I am very much disposed to wish that the Church might hesitate before they adopted a plan which tempted acquiescence on the part of the lessee, by giving what I consider a very great boon to the tenant for life as against the future interest of those subsequently interested in the property, I mean in all cases of settled property; in all cases where there is any future interest in the property, it would do a very great wrong to the future interest to the advantage of the man in possession. Desiring in any thing I say on this subject to speak in the interest of the Church as of the lessee, and thinking that in the settlement of this question the character of the Church is almost as much involved as their money interest in it, I am very anxious that no plan should be suggested which might excite unfavourable impressions of the motives or conduct of the Church, and I do think that such a plan would not be favourably thought of.

3196. That plan would not interfere with any existing rights of the reversioner, but would only put on a new footing the rights acquired by the renewal; is not that so?—That might be perfectly true; but it is idle for us now to deny that this property has in great districts of England been dealt with in every respect in the same manner as freehold, with regard to family arrangements; and there is no doubt whatever that, both with regard to wills and settlements and everything of that sort, it has been so dealt with on the certain and confident conviction that the Church would be disposed to renew. This conviction made parties believe it was as good for their purposes as freehold; and in the North I am informed (and there is strong evidence as to the accuracy of the fact) that in many cases of settlement church leaseholds have been even been preferred to freehold; it is very difficult to say *why*, but that it is so I believe to be true; and I do think in all those cases the future interest in the property, be it what it may, would be injured to the advantage of the man in present enjoyment.

3197. Assuming for the moment, which I believe we may safely do, that that apparent injustice to the successor of this property might be obviated by other arrangements, do you see any other objection to that mode, supposing you were dealing merely with the case of a simple lessee and the Church?—It would be very difficult for me to say that I see any great objection to it, because it is quite clear that to a certain extent it assimilates itself to my own views, namely, the substitution of rent-charge for fine.

3198. As to half?—Yes; and therefore as to that extent clearly I should approve of it. I cannot myself see why you should keep up a complicated, troublesome, and uncertain system by maintaining the system of fines. When the renewal fine is two years value, you allow seven per cent. to the tenant for his money. I cannot see why that should so go on; it appears to me an unnatural and forced system altogether. It seems to me fines have been originally founded on the wants or the desires of the dignitaries of the Church in possession, and is by no means a natural or an ordinary arrangement; it is the sale of a reversion, and, as in all cases where people sell reversions, you sell at a sacrifice. It seems to me a complication which it would be very desirable to get rid of, which it is to be regretted has ever been begun, and which I think, now, when you come to a settlement, might be very advantageously changed. I do not like the system of fines, I think them objectionable; and I should regret, with regard even to half the interest of the Church, that it should be kept up.

3199. If I understood you, your main objection to the plan you are speaking of is, that it would be a plan beneficial to the actual owner, but prejudicial to the reversioner or those persons whose interests are secured by family settlements?—I think it is quite obvious that any man now in possession would pay very much less under this scheme than he would under the present system.

3200. Would he not turn half his fine into rent-charge?—Yes; but during the first seven years the lessee would pay annually 100*l.* fine divided by seven, or - £14 5 8½

Together with a substitution for half the present fine - - 7 0 0

£21 5 8½

While by the existing system he pays 200*l.* divided by seven, or 28*l.* 11*s.* 5*d.* The aggregate payments during the whole seven years would be, in the one case 149*l.*, and in the other 200*l.*, showing a most important reduction in favour of the actual lessee to the prejudice of any future interest in the property.

3201. Your plan being to turn the whole of the value into a rent-charge, and to release the actual possessor from paying any fine at all, is that not more damaging to the reversioner?—I am giving the reversioner the same interest that I do the possessor.

3202. And is not that so in the other case supposed?—Not if I comprehend the plan; because, as I understand it, the reversioner is to go on paying an additional 7*l.* on every

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renewal, in addition to what the man in posseesion has paid, until the annual charge amounts to half the annual value of the land.

3203. Will he not pay a rent-charge *ab initio?*—I will state my meaning in figures. To give an idea of what I mean, I will take a property of 100*l.* a year, with a full term of twenty-one years in the lease. I will assume that the rate of interest in the calculation to be employed is four per cent., and I believe that the respective interests of the lessor and lessee, assuming the fee simple if in possession to be worth 2,500*l.*, would be as follows; the lessee's 1,403*l.*, the lessor's 1,097*l.*; in other words, the interest of the lessee would be 56*l.* per annum, the interest of the lessor 44*l.* The present interest of the Church in that same property I conceived to be something less than 29*l.* per annum, or 200*l.* divided by 7*l.* If the expectation of renewal, which I am disposed to think it is, is worth about two years purchase in the South, then deducting 8*l.* from the 44*l.*, it would give 36*l.* per annum for ever for the Church.

3204. What is the 8*l.*?—The 8*l.* is the interest at four per cent. on two years value. Then my idea would be, that the present revenue derived by the Church being 29*l.* per annum, there would be an increase of about 7*l.* or twenty-five per cent. in present immediate interest derived by the Church from the property. In the case, of course, of the one and a half year's renewal fines, which are prevalent in the North, the addition to the revenue of the Church would be still greater; but then the value of the expectation would be greater, and it must be reduced on the other side. I therefore conceive, in the scheme that I have taken the liberty to suggest, I do not in any way or degree prejudice the interest in reversion to the advantage of the tenant in possession.

3205. Are you assuming the present interest of the Church in a lease full?—Yes; and it is important to recollect that there are very few that are full. When I have supposed the Church only receives 29*l.* a year, I have not been quite fair, because I have left out what is perfectly certain is the property of the Church, namely, the compound interest of the seven years on each 200*l.* They get rather more than that, it is 200*l.* paid down at the beginning of each seven years.

3206. Is that so in your case, as you begin with the lease full, and supposing all the church leases are full?—In that case they have just received 200*l.*, as the lease could not be full without their receiving the 200*l.* I ought in fairness to state the reason why I have taken the full term. I am very much disposed to think that if any arrangement be made, it would be advisable in every case to allow the tenant to make his lease up to the full term as represented in his holding; and I am also strongly of opinion that it would be desirable to convert all leases for lives into leases for years. I ought not to omit to say how very difficult I feel the question, which in fact I believe to be the only very difficult point in this arrangement, that of revaluation.

3207. According to your plan, would it occur more than once?—That would not follow necessarily. I do not think I can honestly deny the right of the Church to revaluations of property at certain periods to be fixed; but at the same time, I do feel that these revaluations are exceedingly objectionable as long as the Church is the landlord, inasmuch as it excites feelings which one would wish to remove rather than encourage. I am disposed to believe that the Church, acting in the same spirit of liberality in which I believe they have always acted as the possessors of this property, do not claim the value of what may be called landlords improvements; but that they do think themselves entitled in the same way as the proprietor of a freehold estate would be entitled to the value of such improvements as a farming tenant might make, holding a lease for twenty-one years; and I cannot dispute the fairness of this view; but at the same time I should be very glad indeed if some arrangement could be made by which the revaluation of farming land could be avoided, inasmuch as I believe that, however unreasonable it may be, revaluations would be a very considerable bar to all future improvements. It has occurred to me, that if no other scheme could be devised, it is exceedingly important that the revaluation, when made, should not come into effect for some considerable period after it is made; but I should infinitely prefer, if it were possible, that this right of revaluation should be purchased at once by the tenant, in the event of any general arrangement being made; and I believe that the present lessees of church property would be disposed to give what might be considered by any tabular calculation rather an exaggerated value for that right of revaluation on the part of the Church.

3208. Do you think, if the valuations were only to take place at intervals of twenty-one years, that that would operate much as a bar to improvement?—I have already so frankly stated that I do not think that it ought to do so, that I may hope to have some value attached to my opinion when I say that I think it would.

3209. At this moment has the lessee of the Church any power of granting to an undertenant a lease for twenty-one years, otherwise than as a contingent lease?—Certainly not.

3210. If power were given to the lessee under the Church to grant a lease to undertenants which should not be contingent, but should insure them twenty-one years, would not that give full scope to such improvements as tenants ordinarily make?—It reasonably might be expected to do so, I frankly and unreservedly admit; but we do know, in reference to the Church, people will not deal with it as the Church has dealt with them, and I fear as a public interest the cultivation of the land would suffer under that arrangement; but I do not think that the Church can fairly be blamed or fairly be thought to exact more than they are properly

perly entitled to if they do exact a revaluation at distant intervals. However, I do not think with regard to buildings, houses, planting, and a variety of things which would be called landlords improvements, that the Church ought to take a revaluation for money so laid out. I ought in an earlier part of my examination to have stated, that the rent-charge which I have suggested ought to be what is called a corn rent as contra-distinguished from a money rent. I wish also to state that if by any plan that could be adopted the money that might be paid to the Church in redemption of this right of revaluation could be effectually secured, there would be no difficulty in showing that a beneficial arrangement could be made for the Church. With reference to revaluations, I wish to add a few observations. It is unnecessary to do more than to allude to the obvious effect of revaluations at distant intervals as holding out an almost irresistible temptation to an occupying tenant to exhaust and work out his lands during the last years of his lease, and thereby diminish the amount of such valuation. In the case of ordinary transactions between landlord and tenant there is generally a negotiation in reference to the increase of rents, *if any*, to be affixed to a farm at the expiration of a long lease, but in the case of church property no negotiation would be possible and the valuation would be rigidly made on whatever principles might be laid down. This brings me to a difficulty which appears to me a very serious one, and sufficient of itself to recommend to attentive consideration my suggestion that church lessees should be enabled to purchase or redeem this right of revaluation on the part of the Church. It is this: in case of a difference between the Church and their lessee as to the amounts fixed on revaluation, how is a dispute, if such arises, to be settled? It is easy, of course, to arrange this reference of a revaluation to arbitration, but it is not less easy to imagine many cases where no arbitration would settle the difficulty. Suppose the case of land near a town increasing gradually in size, such land acquires gradually increased value, first as accommodation land, secondly as building ground; but, if occupied by the party holding directly from the Church, it may not suit his views or convenience to use it as accommodation land, and still less as building land. How is this to be arranged? It seems unfair to impose on the tenant the necessity of using the land in a manner inconvenient or disagreeable to him, and he has not the option, as in the usual case of difference between landlord and tenant, of giving up his land, inasmuch as his (the lessee's) interest will be larger than the lessor's. Again, the right of revaluation remaining in the Church, it is impossible that by any arrangement the fee of the property should pass to the present tenant, subject to a rent charge, as desired so ardently by so many church lessees. All trust property left for investment in land is generally restricted to freehold land, and this would exclude, as at present, all church property from this important market, as long as the right of revaluation exists. If this impediment were removed, it would appear possible, even if the fee remained in the Church, to introduce into the bill emanating from this Commission power to trustees to purchase and hold church leasehold land, if the rent-charge were at once permanently fixed, and was not open to revision by the Church at any future period. The payment of the probate duty is a severe tax on church leaseholds at present. It is paid only, I believe, on property held for terms of years, and is not levied on property held on lives. The heavy law expenses now incurred by church lessees, on each renewal of their lease, will of course cease, and ought not to be lost sight of by the lessees in their estimate of the terms of arrangement which may be suggested by this Commission.

3211. Supposing the Commissioners are not able to make any report upon which any legislation could take place till next session, are you of opinion that they had better wait until they can make a comprehensive and final report upon which legislation may take place next session?—I am decidedly of that opinion, provided that no longer delay takes place in the settlement of this question, inasmuch as I believe that a settlement is now urgent on both sides.

3212. Do you happen to know whether in your part of the country people are continuing to renew?—They are renewing wherever the property is so held that it can be renewed. There is certain property, as the Commissioners are aware, that cannot be renewed; but I have not heard of a case in the district with which I am most familiar of anybody refusing to renew upon the terms that usually have been taken.

3213. Have you ever considered the question of the renewal of tithe rent-charges as compared with the renewal of land?—I will not say that I have never considered it, but I really know nothing about it. I confess, that although I think the lessee of tithes might have a case that it would be very difficult to resist in claiming the same treatment as is applied to the holders of land, that the interests of the Church are not the same, and that it would be for the interest of the Church to run out the leases for tithes, although I think it would not be for the interests of the Church to run out the leases of land.

3214. Are you aware that there are a great number of these church leases which are under mortgage?—Yes, I am. And I am very sensibly impressed with the consequence of this inquiry upon the interest of the lessees, and most anxious that no delay beyond that which the deliberate attention to such an important subject requires should take place in the arrangement of terms with them. I believe that both the persons who have lent money on the mortgage of church property and those who have borrowed it are equally embarrassed at

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the present moment what to do, and that a large number of persons are suffering great anxiety and inconvenience from the postponement of the settlement which I hope may proceed from the labours of this Commission.

Ralph Barnes, Esq.

RALPH BARNES, Esq examined.

3215. HAVE you been for many years chapter clerk to the cathedral of Exeter, and also agent of the bishop?—I have been from 1803 an officer of the dean and chapter, and chapter clerk from 1810. I have only been secretary to the present bishop since 1831.

3216. In consequence of the time you have been connected with the cathedral, or from the records with which you have become familiar, are you aware that great changes have taken place in the number of years purchase that have been exacted in fines for given terms?—Speaking of the chapter, I believe, although I do not know that it is stated in their books, the terms were, for renewing seven years in twenty-one, one year's value, up to the year 1772, when a change took place.

3217. Do you know that from the documents you have seen?—Yes. I have no doubt the fine was, for seven years in twenty-one, one year's value up to 1772; then it was increased to a year and a quarter; and in 1806, to a year and a half. As to leases for lives, I believe the rule up to 1773 was a year and a half for adding one life to two, which in 1806 was made two years, the lives being under the age of fifty. The rule for lives after that was to calculate by the tables at five per cent. according to the ages of the lives. This applies to the dean and chapter only. I know of no rule of the bishop as to lives or years; the present bishop has none. The value taken was a gross rent by a surveyor's estimate, deducting only the reserved rent, and no other outgoings; and in that way, I believe, a fine of a year and a half's gross value, would be two years net value.

3218. Was that the general practice?—Yes. I should add, having stated that as the rule, that whenever the lease had run out beyond the usual term, the fine is set on terms less advantageous to the lessee, and that, as to value, special cases are always taken into consideration; and further, as I will hereafter explain, the chapter has very largely refused to renew.

3219. Have they refused to renew, without assigning any reason, or did they assign reasons?—I will take the liberty to answer that question by stating the course the chapter did adopt. The great bulk of the chapter's property in land consisted of sixteen manors; four of those manors were sold under the powers of the Land Tax Redemption Act, nine of them were on leases for twenty-one years, the lessees or lords farmers having a power to grant copies for lives, according to the custom of each manor. In 1812, when I became chapter clerk, I laid before the chapter a scheme, by which, founding it on the ground that the income had been largely increased by the operation of the land tax sales, and that this mode of leasing the manors was highly injurious to the chapter's interest, and destructive of the proper connexion between the Church and their tenants, and also with a view of ultimately reducing copyhold estates to leasehold as well as obtaining the advantage of timber and other minor incidents, I recommended that the chapter should refuse to renew any of the leases of the manors. I stated to the chapter that up to the year 1549 these manors had all been in the hands of the chapter; that about that year, in the beginning of the reign of Edward the Sixth, they had all been granted for terms absolute of ninety-nine years, reserving as annual rent, about the average previous produce; they were mostly granted to the nominees of the Protector Somerset; that these leases expired about 1645, and that previously to that year, in 1633, King Charles had addressed a letter to the chapter, recommending it to the chapter to let the leases run out, and then to lease the demesne, and let the copyhold by copy. Notwithstanding this, about 1645, partly grounded on an obligation to provide money for the King, the chapter did grant these manors on lease for twenty-one years, but not without a strong protest from some of the canons. That just after the Restoration in 1662, these leases would again have expired; but the chapter again, on various grounds, alleged to be for the benefit of the Church, regranted these manors by lease for twenty-one years, and they have ever since continued under that tenure. I showed to the chapter, by comparison of one of these manors with the only manor that had escaped this mode of leasing, that the effect was to give, for the present produce of the manor not leased, five times the produce of a manor of equal yearly value which had been so leased. Upon a consideration of the whole case, the chapter resolved not to renew the leases of seven manors. They, through many changes, faithfully adhered to their resolutions; the leases were none of them renewed, and the last of these leases expired in 1830.

3220. What is the date of that resolution?—1812.

3221. That was during your administration?—Yes. The paper I hold in my hand is the actual paper of my recommendation.

The document referred to by the witness was handed in and was as follows:

"Observations on the manor leases presented to the chapter at their audit on the "2d of January 1812.

"Part of the possessions of the dean and chapter of Exeter consists of copyhold manors, each "manor comprising copyholds and demesnes in various proportions. These manors are leased "out

"out by the chapter for twenty-one years. The copyhold part of the manor is granted out "by the lessee, in various tenements, for two or three lives, with widowhood rights; which "grants he has a right to make, even on the last day of his lease. The demesnes (which are "rarely more than one third part of the manor) are not grantable out for any longer term "than that which the lessee has in the manor. The lessee of a manor has vested in him "all the rights of the lord during the term of his lease; and the Church, which grants such "lease, has no right, privilege, or authority, or any connexion with the manor or tenants. "The lord pro tempore, even for a single day, has in law as much power during the existence "of his interest as the lord in fee simple. Though the copyholders cannot commit waste, "yet the lord pro tempore may waive the taking any notice of such waste. The lord "pro tempore cannot cut down timber for sale, yet his lessor (the chapter) have no right "whatever to enter or touch the timber or the land without his consent. It is true, the "timber on the demesne part of the manor may be reserved by the chapter in the lease. "Four out of sixteen manors which belonged to this church have been sold for the redemption of the land tax of the remaining twelve, two are on hand, nine are granted for terms "of twenty-one years, and one is held for a single life. Formerly all the manors were in hand, "and the yearly profits collected by the several stewards into the common treasury of the "church. Since the reign of Queen Elizabeth a practice has been introduced (agreeable to "the authority of the legislature) of granting ecclesiastical estates for twenty-one years or "three lives, and renewing such leases at stated periods for fines; a practice which, however "wise and convenient for houses, tithes, and farms, is totally inapplicable to manors, where "the lessee has a right to grant the farms for a longer period than his own lease. And it appears "to me that the leasing out of such manors (if it be within the letter) is assuredly contrary to "the spirit and intention of the wise laws of Queen Elizabeth, restraining any alienation "by ecclesiastical persons for more than twenty-one years or three lives. (Read the clause "of the thirteenth of Elizabeth.) In fact the church of Exeter is found to be the only "body in the kingdom which has adopted and, speaking generally, continued, such a practice, "subversive as it is of all connexion between the Church and its tenants, and exposing the "tenants of the land to the exactions of the middle-man. Detrimental as it is to the "interest and injurious to the honour and dignity of the Church in the highest degree, "has not the existence of such leases afforded an easy path for the absolute sale of four of "the best manors belonging to this church, which under no other circumstances could have "been thus alienated? And when it is once known in what manner this practice was originally "introduced, I can scarcely think the practice itself can by any one be justified in principle, "however we may happen to differ in opinion as to the best and most practicable, fair and "safe way of getting rid of it. Up to the year 1549 all the manors were in the hands of "the chapter, the copyhold parts being granted out by them according to the custom of the "manor. In the year 1549, immediately after the accession of Edward the Sixth, the Duke "of Somerset, Protector of the realm, wrested from the chapter leases of all the manors, "(except one) to himself and to his adherents, for an absolute term of ninety-nine years. "The two best manors were granted to the Duke himself; they were granted at the same "yearly rents as the present reserved rents, without fines. Surely this cannot be deemed a "precedent to be followed. It must, at least, be allowed to have been desirable that at the "expiration of those leases the course should have been returned to its old channel, and the "manors have been kept in hand. Accordingly, King Charles, in the year 1633, sent the "following letter to the chapter:—

"'After my hearty recommendations. Whereas His Majesty, of his princely care of your "'church, was pleased by me to send you a command not to be over-hasty in letting and "'selling the manors belonging to your chapter, but to forbear all further alienation until "'your last audit, which is now past; and accordingly you have hitherto forborne any "'alienation. His Majesty, being now further informed that his attorney general, who well "'knows the state of your church and manors, being consulted with by some of your body "'about the point, hath delivered his opinion under his own hand in these words: 'If the "'good of your church be intended, the honestest way is to let the leases run out, then "'to lease some demesne under the former rent, and keep your copyhold and service, and "'let out your copyhold by copy.' His Majesty, therefore, intending only the good of your "'church, doth further confirm and settle this honestest way, and by me now is pleased to "'will and command every one of you not to alienate or further estate any of your manors "'in gross, but to let your present leases run out; nevertheless, if any of your manors be "'of any composition between the church and the present lessees to be drawn in and "'brought home again to your church, His Majesty's meaning is not to restrain any such "'act, but rather to encourage you all in so good a work, mainly tending to the present "'and future good of your church. And so I leave you, and rest your very loving friend, "'Francis Windebank.' (The superscription) 'To my very loving friends, the dean "'and canons of the cathedral church of Exeter.'

"This letter was entered in the register book, and there was no intention but to adopt its "recommendations; but unhappily about three years before the expiration of the leases, "namely in 1645, the troubles of the kingdom were at their height. The King wanted "money, and he assented to the chapter again leasing the manors in order to raise money "for the royal purposes. In the meantime, that is, after the year 1549, the restraining "Act, 13 Elizabeth, 1571, had passed, making void all leases for more than twenty-one years; "and the renewed leases in 1645 therefore were granted for that term. This again can "hardly

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" hardly be converted into a precedent for such leases. Soon after the Restoration these leases " again expired. Surely it might reasonably be expected that after such an extraordinary " escape of the property of this church from confiscation, the members of the chapter at the " Restoration, with such an opportunity before them, would have reverted to the ancient prac- " tice of the Church; but once more all the manors were again leased out for twenty-one " years, and so have ever since continued. This, however, was not done without some canons " dissenting. I cannot but think that the impropriety of leasing out the manors is sufficiently " plain upon general principles, without adverting to the enormous disadvantage to the " Church in a pecuniary point of view, which can easily be shown and proved. I would choose " rather to rest the argument on the dishonour and discredit of the practice to the Church. " Suppose each of these manors to comprize one hundred tenants, is it better for the Church " that they should hold immediately from the chapter, be connected with and be dependent " on them, and feel the benefit of Church renewals, or that the connexion and dependence " and benefit should be confined to one person? The best and plainest way I know of " explaining the pecuniary difference of leasing a manor or keeping it in hand, is to set " down the actual produce of the only manor which escaped this kind of lease, manor A. " in comparison with the produce of one of the copyhold manors, the nearest to it in point " of size and value, manor B.

		B.	A.
" Comparative " magnitude.	Number of acres - - -	650	620
	Estimated yearly value in 1660 - -	£ 580	£ 450
	Ditto - - in 1810 - -	1,150	1,600

	£	£
" Average yearly produce of each while in hand previous to the year " 1549 - - - - - -	25	19
" Yearly produce from 1549 to 1628 while B. was leased for ninety- " nine years - - - - - - -	27	Unknown.
" Average yearly produce for a period of fifty years from 1660 to 1710	51	67
" The like for a period of fifty years from 1750 to 1800 - - -	45	132
" The like at the present day, calculated at the present estimated yearly " value and rules of renewal - - - - -	97	359
" The yearly produce of B. as it ought to be according to the relative " proportions of these manors in 1549, viz. as twenty-five to nineteen, " and which is nearly agreeable to their relative extent of acres, and " estimated yearly value in 1660 - - - - -	472, or nearly five times as much as its present produce.	
" And the yearly produce of A. as it would have been in case it had " shared the same fate as B. according to its relative proportion " on the same data - - - - -	73, or about one fifth part of its present produce	

" So that the difference to the dean and chapter, considered as a perpetual corporation, of " granting out a copyhold manor or retaining it in their hands, is just in the proportion of " one to five; and whilst manor A. has been thus going on producing so much more " than manor B., at the same time the copyhold tenure in A. has been gradually abolished " and extinguished, and the whole of that manor is now held in several farms on leases for " twenty-one years. The sales for redemption of the land tax has reduced reversions " into possession. It alienated for ever from the Church a very considerable proportion of " its possessions, for the purpose of increasing present income. What can with more " propriety accompany such a measure than the restoration of some of the remaining " manors to the Church? These observations have been directed generally to the measure " of leasing manors. The immediate question now before the chapter is the renewal of " the manor C. If I may take the liberty of suggesting that which upon long and mature " consideration appears to me the most desirable and practicable course to pursue in this " business, it is, to continue the chain of non-renewals, which commenced in 1808 with " manor D. If the chapter can forbear the renewing the seven manors, which, for many " reasons, are the most beneficial to select, the great object is accomplished, and the rest " may be left to future consideration. The forbearance is only till we reach the first link of " the chain of the falling in of these leases, and then all will be safe; the benefit will then " be too apparent to leave anything to fear. And when is this distant period? In Sep- " tember 1819, the arrangement may be secured by a concurrent lease of manor D., " the first of the chain, and from that time the benefit of the measure will begin to be " enjoyed and increased every year. The forbearance, therefore, is only for a little more " than seven years from this time to the year 1819. It is the suspension of receiving for " these seven, or say even ten years, the fines arising from the renewals of some of the " manors, with every fair probability of enjoying them with interest fourteen years after " such suspension.

" The manors which I would propose not to be renewed are the following six:

" *D.* -	The lease expires in	1822.
" *C.* -	Do.	1824.
" E. -	Do.	1825.
" F. -	Do.	1826.
" G. -	Do.	1826.
" B. -	Do.	1826.
" H.	Do	1830.

" The

" The measure of securing the fines to the existing members is applicable only to the " cases of those manors where, at the falling in of the lease, there will exist the means of " raising a sufficient fund by sale of leases of the demesne estates, as in manors D., C., and " E.; but, in my opinion, that plan cannot be adopted in the cases of those manors " which consist entirely of copyholds, as in the case of the manor F., G., B., H., because " in these cases there will not be the means of raising any immediate fund for the payment " of the suspended fines."

3222. When did the first of those leases expire?—The first expired in 1822. The course the chapter pursued with this property was, at the expiration of the lease to sell leases for twenty-one years of the separate demesne estates.

3223. When you say they have sold the leases, do you mean they took fines on twenty-one years leases?—Yes, of the demesne estates; but they have very sparingly renewed any copyhold grants. The inconvenience of tenure of copy for lives is too evident to make any detailed explanation necessary; it is an impracticable holding for the common purposes of transfer.

3224. In addition to the obvious inconveniences, are there not inconveniences arising upon the rights of dower?—Yes, the right of widowhood attaching on the whole estate. And it may be enough to say, that the privilege of a copyholder, tenant for life at any advanced age, by marriage with a wife of any age, to give her the whole estate for her widowhood, is quite sufficient to show the injurious nature of the tenancy, not merely in point of interest to the lord, but in point of morality and of convenience, and even of justice, as regards the copyholder himself. The chapter have not only generally declined to grant copies, but they have also availed themselves of every practicable opportunity of converting the copyhold tenure into lease for twenty-one years.

3225. Have they fined upon those leases, or do they grant them at rack rent?—They sell the leases for a fine; and when the copies have fallen into hand, they have in the same way granted leases for twenty-one years on a fine. The effect is, at the present time, that I believe, taking the whole of the leases held by copy at an average, the copyhold tenure is so far reduced, that in a general way it might now be replaced as an equivalent by a lease for twenty-one years.

3226. You said that when they fell into hand they treated them in the same way, and that you could never grant a lease for twenty-one years, except when it had fallen into hand; did you mean that?—I meant that the twenty-one years lease is granted on surrender, and by way of exchange for the copy. My advice would be, never to grant another copy, but as opportunity occurs, to grant these lands by leases for twenty-one years. The inconvenience of the copyhold tenure is felt by the tenant as well as the lord, from the difficulty there is of transferring; and the full copyholder's interest can hardly be transferred legally at all.

3227. Can they transfer the right of the widow's dower?—They may surrender, which extinguishes it. It is difficult to say what effect any other act of the copyholder would have. With regard to the rule or system of leasing for fines, perhaps the history of its introduction in the chapter of Exeter may serve as an explanation of its origin. It will be seen by reference to the Valor of Henry the Eighth, that the manors and property generally of the Church were at that time in possession. The Valor of Henry the Eighth, made in 1535, contains no trace of an existing system of leasing for fines. In the chapter of Exeter the rectories were divided into farms, and each canon had the option of taking one. In each manor there was a steward rendering to the body an annual account; the tithes were sold annually by the collectors, or the canon who had the rectory in farm. Such was the state of the property at the time of the Valor. It will be seen that not a single manor of the bishop or of the chapter of Exeter was at that time in lease. The same observation applies generally throughout England; it may be taken as certain, that at that period there was no system of ecclesiastical leasing. In 1529, twenty-first Henry the Eighth, an Act was passed entitled " Spiritual persons abridged from having pluralities of livings, and from " taking of farms, &c." It enacted that no spiritual persons, secular or regular, should from thenceforth take to farm any lands or other hereditaments. It was after and in consequence of that Act that leases to laymen were introduced; the legal reformation began in 1532. The first Act for dissolution of monasteries passed in 1535; the second in 1539. In the latter there are provisions referring to ecclesiastical leases, but no allusion to leasing for fines. But that Act conferred no power of leasing on chapters; it was only enabling to bishops and other corporations sole. Now, in fact, at that time, as far as regards the church of Exeter, neither the bishop or the chapter had begun to lease; and it is remarkable that the Act only enabled ecclesiastical leases of " lands most commonly letten to farm for twenty years " before;" so that the Act was prohibitory, rather than enabling, of leasing what was not before that time let to farm; assuredly not contemplating the establishing of a system of fine leasing, whatever in fact turned out to be the sequence. In consequence then, or subsequent to the Act of 1540, the rectories were also leased for long terms of sixty years, eighty years, and for three lives. This explains the restraining Act of the thirteenth of Elizabeth, chapter ten, which recites, "for that long and unreasonable leases made by the chapters, " &c. be the chiefest causes of the dilapidations and the decay of all spiritual livings and " hospitality, and the utter impoverishing of all successors;" and the Act restricts the power of leasing by a chapter to twenty-one years or three lives. The power of the bishop had been

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been subject to a similar restriction by the Act of the first year of Elizabeth. It was subsequent to that Act (speaking of the property of the chapter of Exeter) and upon the granting of leases upon the expiration of the long leases granted previous to the Act, and within the limits prescribed by the Act,) that fines began to be taken subsequent to the Act 13th of Elizabeth. Two thirds of the tithes belonging to the chapter were leased for lives, and at rents much nearer their real value than lands. The chapter have reduced those leases for lives to leases for twenty-one years, so that now no more than about one sixth are leased for lives.

3228. When did they do that?—This has taken place between the first lease in the reign of Elizabeth and the present time.

3229. Do you mean that it is within that time that they have reduced them from two thirds to one sixth?—Yes; the reducing the leases for lives to leases for twenty-one years was agreeable to letters from King Charles the First.

3230. Were those letters specially addressed to the dean and chapter of Exeter, or were they general?—There were royal letters from Charles the First, on more than one occasion, to the dean and chapter of Exeter; but whether that was the case in respect to all the deans and chapters I am not aware.

3231. That conversion from leases for lives into leases for years is still going on gradually, is it not?—Certainly. We have one manor in which the lands were grantable by copy for lives; but by virtue of a Private Act of Parliament in the reign of Queen Anne, the chapter or their lessees were authorized to grant leases for three lives. The effect of that was, that a long while since all the copies were converted into leases for lives. In the same view, although the chapter do not refuse generally to renew these leases for lives, they have invited a change of the tenure to twenty-one years, and it has been effected in several instances, and I look forward to its becoming general.

3232. Upon what tables does that conversion take place?—The value of the existing life, and of the term of years, would be valued by the same table, whatever it be.

3233. Do you know at what rate of interest?—The renewals for lives have always been calculated at five per cent., and therefore the conversion would take place at five per cent.

3234. Are the lives calculated by the Northampton table?—They are estimated by a book called Inwood's Tables. I believe, if the dean and chapter were permitted to continue this course of changing the copyhold tenure and life tenure into leases for twenty-one years, that in ordinary course and within a moderate period it would be completely effected throughout their property, and without any legislative interference.

3235. And would that be with the good will of the lessees?—In regard to the lessees, I believe that the holding for twenty-one years in preference to the holding for lives is becoming popular. In regard to copyhold, there is a natural attachment to the custom; but many also, I believe, of the copyholders, do or will feel the great inconvenience of the tenure to themselves, and that they are or will be ready to exchange it for a tenure by lease for years.

3236. Have you any late instance of a refusal to renew, in the case of ordinary leases, on the part of the dean and chapter?—The ordinary course is to renew at the stated period of seven years. If the lease has gone beyond that time, it is looked to with reference to the advantage of letting the lease run out according to the term expired; and, without any rule, the chapter have frequently resolved not to renew a particular lease which may have passed the usual period of renewal. The chapter have even, upon an application at the usual period, take into consideration special cases, and refused to renew,—I do not wish to state a particular instance, although I am referring to one, but the matter was subsequently adjusted by renewal.

3237. Have you known any case in which the chapter have refused to renew, where there has not afterwards been a renewal?—Several. It was the case of the manors to which I have previously referred, and again when the land was adapted for improvement by building, and also cases of this description, where the dean and chapter wanted a piece of land to annex to a vicarage or curacy, there they have refused to renew the lease, except on surrender of the land wanted; and where that has been the whole of the land comprised in the lease, the chapter have never hesitated, where they had reason for so doing, to refuse to renew.

3238. Has that occurred in many cases?—In a great many cases in my time; lands and tithes. Besides the various reasons mentioned, I recollect cases without assigning any reason, and where the only reason was the more beneficial use of the property.

3239. There is the Act of the 1st and 2d William the Fourth, Chapter 45, for the augmentation of benefices, in which there is a section, the 7th, which declares that where hereditaments are subject to a lease not reserving a rack rent, augmentations may be granted, to take effect on the determination of such lease.

3240. Are you aware of that clause?—I am. The livings in the patronage of the dean and chapter of Exeter are almost all of them vicarages endowed with the small tithes. They have only a few cases of unendowed curacies,—I think five only; and in all those cases, as well as in the case of the poorer vicarages, the chapter have availed themselves of the power of the Act for augmentation.

3241. Under the Act generally have you granted lands in lease to take effect at the expiration of the lease?—Yes. In some cases the dean and chapter have granted land; in some, tithes; and in others, rent out of tithes.

3242. Do you mean, to take effect after the expiration of the existing lease?—Yes, in each case to take effect upon the expiration of an existing lease.

3243. In renewing leases, have the dean and chapter ever increased the reserved rent?—When a lease has fallen in, and a new lease been granted for twenty-one years in exchange for a lease copy for lives, they have almost invariably increased the rent, but not ordinarily upon renewals.

3244. Have you any suggestions to make as to the best means of improving the administration of church property?—I have. I will assume that the system of leasing for fines is desired to be improved for the object of obtaining a larger advantage out of the property to the Church; and I think the time has come when this system ought to be discontinued. I have long and deeply considered what is the best ultimate result for the Church; and I have come to this conclusion, that the best and only safe result, with a view to maintaining in the Church the benefit of its property, is, first, as to tithes being commuted for a yearly rent; that there is no longer any reason at all for their being leased; that there is no desire on the part of lessees generally to continue that system; that the non-renewal of many of those leases, as far as regards the chapter of Exeter, affords a very favourable opportunity for converting them into an estate in possession. And I have been unable to discover any objection whatever to the proceeding upon the plan of obtaining them in possession, providing for the chapter in the meantime an annual income estimated to be the income from fines. To state the effect of such a plan in round numbers, and which may be taken as a guide in cases of lands, I believe it would be this: That, suppose of 100*l.* a year the chapter by the present system receives thirty per cent. (I am speaking of a lease for twenty-one years), and there remains seventy per cent.; and suppose that leases for twenty-one years upon the average have seventeen and a half years to run (and in fact in the case of the chapter of Exeter they have less); then, a pledge of double the amount for seventeen and a half years to come after the existing term of seventeen and a half years being equivalent to a given amount for the existing seventeen and a half years. Taking the case of an estate of 100*l.* a year,) I can obtain 33*l.* 6*s.* 8*d.* in præsenti for the seventeen and a half years by pledging 66*l.* 13*s.* 4*d.* for seventeen and a half years afterwards. And by this rule, if it be wanted to obtain a part of those two thirds at the expiration of the seventeen and a half years, or even before, it can be obtained by pledging the remaining part for a longer term. I should very much prefer such a scheme to alienating in fee any part of the property. And by those means, commencing with the present income, or something more, a progressive increased income might be obtained, and ultimately the whole, that is, by repeating the same operation of renewal, reserving at every successive renewal an additional rent in præsenti equivalent to the intended term granted, and that not under any fixed rule, but as in each case found practicable. The earlier that the increase of rent be required the more distant would be the realization of the result.

3245. Will you illustrate that by any sum most convenient to be dealt with?—I would illustrate it thus: Taking interest at five per cent., and a lease of seventeen and a half years to run on an estate of 100*l.* a year, I propose to grant a lease for thirty-five and a half years on a surrender of the existing lease, that is, adding eighteen years, which is worth five years value. Then the sum stands thus: The five years value on the 70*l.*, the beneficial interest to be granted is 350*l.* The value of the 30*l.* a year for the seventeen and a half years of the existing lease is worth eleven and a half years, which is 345*l.*, or very nearly the equivalent to that which is to be granted.

3246. The lessee gives five times 70*l.*, or 350*l.*, for the prolonged tenure which you grant him?—Yes.

3247. And in lieu of that will he give you 30*l.* a year for the existing tenure, that is to say, for the seventeen and a half years?—Yes.

3248. What happens at the end of the thirty-five and a half years?—At the end of the thirty-five and a half years the Church is in possession of the 100*l.* a year. I am speaking of the case of tithe leases, with a view to show the effect of running out those leases, borrowing the money necessary for present income at five per cent. Of course if the money is borrowed at a more advantageous rate of interest, by so much is it the better for the Church. If you borrow the money at three and a half per cent., the loan would be covered by a term of less duration.

3249. Then you get no immediate increase, do you?—If you get any increase above the annual sum that represents the fines you must pay for it by granting a longer term. On that point we must never lose sight of the axiom, that in proportion as you anticipate revenue, you must either retard or annihilate the ultimate benefit.

3250. With regard to tithe rent-charges, do we understand from you that the lessees are not anxious to renew them?—I think decidedly that the body of lessees, ordinarily speaking, are not desirous to renew tithe rent-charges. After the commutation, the chapter adopted the terms, for renewal of seven years in twenty-one, of a fine of two years and a half; and effected some renewals upon those terms. They have lately reduced it to about two and a

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quarter years, and upon those terms they are effecting renewals, but some of the lessees decline to renew, and the leases are running out.

3251. Are there not cases in your diocese in which such rent-charges are made subjects of settlement, or where parties are dependent upon that sort of income?—Tithe leases are rarely in my experience made the subject of a settlement. That more frequently occurs in the case of leases for lives, of which the chapter have but very few. I do not at this moment recollect an instance of a tithe lease for years being made the subject of a settlement.

3252. Would not that come to your knowledge if it were so?—Certainly. Upon every renewal we require to see the intermediate assignment.

3253. Therefore you speak with knowledge, do you not?—Yes.

3254. If there is equitable interest in any parties, do you require to be satisfied that that equitable interest is protected on the renewal?—Certainly not, if on the face of the instrument the trustee has power to deal with the lease.

3255. Then of other interests but those which are evident upon the face of the instrument do you take notice of?—We cannot. In cases of trusts we see if the trustee upon the face of the instrument has a power to deal with the lease.

3256. Upon what ground do you imagine the lessees are not desirous of renewing tithe rent-charges? Is it that they conceive the terms are ceasing to become favourable to them?—It is merely considering the renewal as matter of bargain; that the terms are not favourable enough; and from the uncertainty of the future amount of the rent-charge, depending on the variations in the price of corn. We calculate on the rent-charge as settled by the Act; and the lessees begin to be unwilling to take that to be the amount of the rent-charge for the term. Having thus explained my view generally of the effect of granting an extended term with a view to obtain a rent equal to the fines for the existing term as applicable to the leases of tithes, I will now take the liberty of suggesting how a similar operation is applicable to leases of lands. We will suppose all leases for lives and copies for lives to have ceased either by expiration, or by surrender and conversion into leases for twenty-one years. And in order to facilitate such conversion, if, under the restriction of the present law, we are unable to grant a sufficient term to be equivalent to the then existing life interest, I would desire to see a power to grant such an equivalent term in the first instance, ultimately reducing the term to twenty-one years.

3257. At present the chapter of Exeter have very few leases for lives?—Our chief life-hold tenure is by copy, which I would by all means extinguish. We have one manor only wherein leases for lives are granted, a small proportion of tithes for lives, and one or two scattered estates.

3258. Is it your plan to calculate the number of years purchase that the lives actually in existence in the lease are worth, and to have the power of granting that term as a leasehold interest, meaning thereby to reduce that to twenty-one years?—Yes, that would be my plan.

3259. Would you take at once the whole amount of interest now existing in tenure for lives, and give an equivalent in a fixed term of years?—Yes, dealing with each case distinctly.

3260. Would you make that compulsory, so that if it was an object in a family that a particular person had an estate secured for his or her life, that that should be, as a matter of course, connected with a fixed term of years?—It could not be made compulsory on the lessee; and I certainly would not make it compulsory on the lessor, because the health, and all circumstances regarding the life, must be taken into consideration.

3261. You would not make it compulsory on the table of lives?—Certainly not. The life may not be an average state of health, or may be abroad. But I would not make it compulsory at all on either side, except as prohibitory and enabling to the Church.

3262. Is there not a smoother way of doing that? Supposing, instead of at once deciding that this conversion should take place from lives into years, you were to follow up this plan: When a person came to put in an additional life, to say, we do not object to renew your lease, but we will not give you an additional life; we will calculate what number of years an additional life may be worth, and we will grant you that number of years, to begin at the decease of the existing lives, or negotiate for the substitution of the whole of the lives?—That ultimately would have the same effect; but it would be much better, I think, to deal at once with the lessee for exchange of the existing interest, for I do not propose any thing compulsory, the whole would be matter of arrangement. I would take leave to speak to the largest and most important subject, as far as the dean and chapter of Exeter are concerned,—leases of lands for twenty-one years. I have assumed that the system of renewal for fines will have ceased, and the lessee to remain in possession of his existing term. Now, in regard to any value beyond the tabular value of that term, it seems to me impossible to say that the lessee has any right, legal or moral, to any extended term. To admit such a right, or the validity of such a claim, in any sense or degree, is destructive in principle of the right of the lessor. The lessee can have no just claim which is not in itself a legal right, and capable of being measured in value; and I conceive that there can be no just claim beyond that which, looking at the acts of a prudent person, would have been given in the outset

outset for the lease. It is possible that the lease might have been purchased at the four per cent. tables, which give, for twenty-one years, fourteen years. I know that in fact when the leases of the manors of the chapter fell into hand as I have already described, and the demesne estates were sold for leases of twenty-one years, that they were sold at that rate or a higher; I think I may nearly say, by the five per cent. tables, at thirteen years purchase. I conceive, therefore, speaking generally of the tenants of the chapter of Exeter, that the leases for twenty-one years ought not to be considered as worth more than fourteen years purchase.

3263. Is that what they sell for?—These leases are rarely brought into the market for sale; but when offered for sale, I think they have been in my recollection sold for fifteen years purchase; I do not recollect any higher price. I know of no way in which the Church can be put into possession of its just right, except upon a system of running the leases out, and letting the estate at its improved rent, or as near to it as deemed expedient. With regard to the station and character as well as the interests of the Church, I see no objection whatever to the property being held in that way. I can conceive no better, no more advantageous tenure, with reference to the improvement of land and the public interests, than the Church being in possession, and the estate being let at, I would, say four fifths of its value, leaving the other fifth for contingencies and to be laid out in improvements. The principle suggested in the case of tithes I propose to apply to leases of lands, it is this: that the dominion of the property be not parted with; any renewals to be optional, both to the lessor and lessee; should the lessee decline a renewal, it would be open to make terms, probably more advantageous to the Church by means of loan, for the accomplishing the same end. Should a system of renewals at increased rents be adopted, such renewals might take place at any periods, stated or optional; it would not be necessary to lay down any rule. The only rule should be, that the term should never be longer than the term granted in the first instance, and that the term be gradually reduced down to that deemed the proper permanent limit, which I think should not exceed twenty-one years. Let us see the effect of the operation. Take the case of an estate of 100*l.* a year, calculating as if the value remained permanent throughout, although the plan supposes a re-valuation at each renewal, and that the increased rent be a proportion of that value. Suppose the term in 1849 to be seventeen years; that on surrender a lease is granted for a term of thirty-five years, being an extension of eighteen years, reserving an annual rent of 30*l.* extending over the whole term: the beneficial rent beyond the reserved rent would be 70*l.* At the expiration of five, seven, or ten years, or any other period, a renewal might be offered, filling up part of the expired term, so that at each successive renewal the extent of term be reduced, and ultimately down to the assigned permanent limit. At ten years, the offer might be to renew five, at seven years to renew four, at five years to renew three; the principle being the same, the reducing of the outstanding term, and the immediate acquisition of an equivalent additional rent. If at the end of ten years the term were extended from twenty-five to thirty years, an additional rent would be acquired of six per cent., at the second renewal an additional rent of seven per cent., at the third renewal nine per cent.; so that at the third renewal in 1879, the lease to be granted would be for twenty years, reserving a rent of 52*l.* Thus, whilst the plan of sale and purchase obtains in possession and for ever only fifty per cent. of the property, the plan of renewal would secure from 1849 thirty per cent., from 1859 thirty-six per cent., from 1869 forty-three per cent., and in 1879 fifty-two per cent., the remaining forty-eight per cent. being subject to a lease for twenty years. But should the benefit prove less, or the term longer, the principle remains good. On the other hand, were the lease to expire, and the necessary funds during the interval obtained by loan at four or even five per cent., the result at the end of seventeen years would be equally favourable. I have not noticed the amount of the existing reserved rents, as affecting the question. The existing reserved rent, including land tax, may be taken to be, for the present purpose, ten per cent. Speaking financially of the operation of any measure founded on the yearly value, the rent at present reserved is immaterial; we have been speaking of the value above the rent; but when we come to consider the practical operation in any particular case, then the proportion of the reserved rent to the value becomes a material element. If the rent at present reserved be ten per cent., a tenth part of the transaction is already accomplished. But, whatever be the plan, I most earnestly hope that no plan may be adopted, either for selling the land in perpetuity, or granting any perpetual right of renewal, reserving a rent-charge in whatever shape, for that is in truth and substance alienation.

3264. Do you mean a perpetual right of renewal without any fresh valuation?—A perpetual right of renewal is alienation of the property, it parts with the dominion.

3265. A perpetual right of renewal, with a re-valuation at stated periods, do you consider that that would be an alienation of the property?—Decidedly. I assume that to be the proposal. And this is my answer: Nothing is the dominion of the property (contradistinguished from alienation) but reserving the right, not merely of having the value on renewal, but of making any changes in the property itself for its improvement. I know that in regard to the manors of the church of Exeter, they are split into some very small holdings,—lands most inconveniently intermixed,—buildings inconvenient, too many or too few; and my object includes the placing the property in its position as farms for its best improvement as land, and that cannot be obtained under any system of perpetual renewal.

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3266. Of perpetual compulsory renewal?—Yes, of perpetual or of compulsory renewal in any shape. In regard to any scheme of perpetual renewal or of compulsory renewal, reserving rent fixed or variable, or representing a certain portion of the yearly value, periodically ascertained, I conceive that any such plan is, in truth and substance, alienation. In Ireland it has been found practically to be a tenure destructive of property, and I hope it can never be contemplated at this day to introduce such a plan for church property in England. Were it adopted, there could be no reasonable expectation of its continuance. It would be perpetuating a leasehold tenure in its worst shape, introducing a system of underleasing of the most inconvenient description, putting a bar to all beneficial future arrangements, and with a certainty ending in the abandonment of the property. If then it be decided, as is my earnest hope and confident expectation, to retain the dominion of the property, I earnestly hope that nothing short of the absolute dominion will be retained, for it is impossible to say in the progress of time what improvements may be made in the cultivation of land for the public benefit, what changes may be required in agricultural arrangement. Therefore, whatever course may be adopted, it is the key to all that I have to say, that the absolute dominion of the property must be preserved to the Church, and leases from time to time renewed, calculated on terms to produce its utmost improved value. My belief is, that a system of tenants holding directly under the Church in that way may prove the best system of tenantry in England. When we look to the changes in property in lay hands,—sales, mortgages, settlements, and other matters,—I conceive that a body of tenantry holding under a permanent body, governed by rules which we must presume would be the most prudent for obtaining a fair rental, and giving encouragement to fair improvement, will be found to be the very best system, on practical, public, and universal grounds.

3267. Let me ask you whether the plan you conclude with saying is the very best would include a system of a body of tenants at rack rents under the Church?—Yes, I do. I am speaking of such a system, and I should consider it to be the very best in the world.

Now, as to the mode of leading to this result. One mode would be to borrow the money necessary to give what I have estimated on the twenty-one years lease to be thirty per cent. in possession for the existing term, and to repay that by a charge on the remainder of the property for a certain number of years, or perhaps in some degree in special cases by the alienation of part. But I would consider the lessees, and I would suggest, subject to the looking to the future arrangements of the farms in the best way, that when there is a lease of a single farm which there is no reason for altering, that an offer be made to the lessee of falling into the arrangement, by giving him an extended term. And what I have said in regard to tithe rent-charge will show the way in which I should frame that; that is, the lessee giving the Church thirty per cent. for the existing term; the remainder would be dealt with by granting whatever term should be thought fit, so as either to leave at the expiration of that term the whole rent, or to obtain parts of it at intervals. One principle should be, to limit the term in any case to be granted; and although the term in the first instance, I have said, might be thirty-five years, I think it should be by all practicable means, and as soon as possible, reduced to twenty-one years. The lessee would see the result aimed at, and if he had no wish to continue his money invested in property of that description, he would permit the lease to expire; in such case I would have the lessee considered. I have said, that I think all that he could be entitled to would be, perhaps, the difference between the purchase of the original lease at thirteen or at fourteen years purchase; that is, one year's value; and that whatever benefit should be conceded to him, would be upon condition that he took a new lease with covenants for the lands being in a proper ordinary state of cultivation at the end of the term. But the lessee will say, "At what rate of interest am I to obtain this extended term?" And, supposing any such plan should be adopted, that is the only question. I do not think it necessary to give any opinion upon that point; it must depend not only on the general rate of interest, but also upon the object and wish of the lessee to retain the property. If I were to say at what rate of interest I think it probable the lessees of the chapter of Exeter, such of them as wished to retain their leases, would deal;—I should say, that at a rate of interest anything above five per cent. a large proportion of them would retain their leases.

3268. That is to say, he would endeavour to procure the prolonged tenure of thirty-five years?—Yes. At whatever rate it was settled the lessees would be sure of the bargain for that extended term of thirty-five years then first granted; but I do not propose that any prospective bargain should be made for subsequent renewal at any rate of interest.

3269. The only question would be, at what rate of interest that extended term should be valued?—Yes; upon which the first term should be granted. The effect is to offer to the lessee to advance the money wanted at that rate of interest; and I would offer it to the lessee at a rate more beneficial than could be obtained in the market. The inducement to the lessee would be, as well the advantage which the investment might hold out, as the retaining and extending his term. In any new scheme an important element would be the providing for improvement by building and drainage and other things; and there should be an authority, upon any money being laid out in building, draining, or other permanent improvements, that it might be charged upon the estate, repayable by annual instalments of the principal with the interest, in the way of a charge on ecclesiastical benefices for building; it might be to be repaid in a term varying from thirty to forty years.

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3270. You say that upon any such sum being so laid out, if the existing term were less than, say, thirty-five years, the charge being over the thirty-five years, the lessee would only bear his proportion for his term?—Yes; for it must be an object in any continuance of leasing, except at the full improved rent, that security be taken that all proper improvements be made by building and drainage that the property requires for the development of its value. I am aware that it may be objected to the plan of successive renewals, that the operation is too slow, that it does not realize early enough the desired object. Now, in balancing the relative advantages of a plan of successive renewals with one of sale and purchase, we must bear in mind that whilst the latter alienates the property, the former preserves it in its integrity. And seeing that the object is, progressive increase, to meet progressive wants, it is of the principle of the scheme, by its gradual working, to preserve the *corpus*. And be it observed that whenever any new lease takes place, it is open in the widest way to convention for improvement of the property; and thus the slow rate in attaining the ultimate result is so far from being any bar to the interim progress of improvement, that the successive renewals offer the best means of ensuring it. If new buildings, drainage, &c. be wanting, such improvements would be no longer left to the choice and ability of the lessee; but at every renewal, the actual state of the lands being considered, whatever may be deemed necessary for the purpose of bringing the property into its best state may be enforced. The cost of improvements may be charged on the estate, to be paid off in such equitable rate of instalments as shall throw on the existing lessee no more than his fair share of the cost; and thus all desirable and permanent improvements secured without disturbing the existing holding. Those lessees who are prepared to aid in improvements would be encouraged, whilst those who were unable or unwilling to take their share would in process of time be excluded. In this view the time taken in the operation may prove its peculiar merit. With regard to leases of houses (distinct from land for building) I see no reason for interfering with the present system, which with us is for houses for thirty-one years; and being authorized by law to grant forty years leases, and our leases being in fact chiefly thirty-one years, it shows that an extended term is not necessary.

3271. Do you see any objection to giving very extensive powers of sale as to houses?—I do not, provided it be for immediate re-investment of the money in land. I confine myself to existing house property, not to land fit for building. The existing power of granting land for building, with the assent of the Ecclesiastical Commissioners, may be quite sufficient. As to the sale of houses, I only think it should be conducted with due caution, so as to sell only when a good price can be obtained. I mean that the present system of renewing leases of houses for fines might, I think, be left to its present operation. I think, as to a large portion of the house property, the system of renewal for fine is not disadvantageous to the Church, and unobjectionable on public grounds. I advise its being continued. I think that much of the house property might with advantage be sold. Houses were sold by the chapter of Exeter, under the Land Tax Redemption Acts; but the sales were made with no prudent selection, disposing of the best, and keeping the inferior class. The system of renewals for fines in regard to houses is not perhaps objectionable, for what constitutes the evil of the system as applied to lands may in respect to houses be its merit, that is, the securing of rent beforehand. I see no objection to a power of sale of houses, well guarded. It may be remarked that the Statute of the 14th Elizabeth, which authorizes the leasing of houses for forty years, in the same clause allows of an alienation in perpetuity, "so that in "recompense assurance be obtained of lands of as good yearly value;"—a very wise object, worthy of the legislation of that reign. But I am not aware of this power of alienation or exchange having been used in practice. Indeed, to a guarded extent, and with security for speedy investment in land, I see no objection to a power of sale of small outlying parcels of land; and, in conjunction with a system of leasing at improved rents, the produce of such sales might with advantage be applied in the purchasing up of existing leases, and in the providing of income in lieu of fines during the period of leases running out.

3272. Has the chapter in regard to copyholds made considerable sacrifices by refusing to renew?—Yes, very large.

3273. Can you state to what amount?—Taking the annual value of the property, as stated in the chapter's return to this Commission, at 8,000*l.*, the non-renewal would be a fifth or sixth, perhaps 1,500*l.* a year.

3274. Do you mean you have made an annual sacrifice of 1,500*l.* a year?—Not, perhaps, that for time past; I am speaking of what may be calculated as the value of non-renewal in future.

3275. Have any of the estates fallen in in consequence in the interval?—In many instances, and then the estate has been sold for a lease of twenty-one years.

3276. Within what period has this sacrifice been made, arising from a refusal to renew?—Commencing in 1822.

3277. Have you ceased to renew copyholds for lives since 1822?—The manor leases expired between 1822 and 1830, and upon the expiration of each we began to refuse, not absolutely, but generally; copies have been partially renewed.

3278. And ever since that time you have made considerable sacrifices in this respect?—Yes, certainly, but little has been renewed.

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3279. Have you anything to do with mines in the diocese of Exeter?—The chapter has very little land in mining parts; they have frequently made grants of licences for mining, but I hardly recollect their having received anything; but lately under the powers of the Ecclesiastical Commission Act, we have granted a lease of a slate quarry, which we hope may be productive. There is another profit, however, derivable from land; that of timber. The chapter have reserved their woods. In Devonshire much of the timber is growing in the hedgerows; and a considerable produce to the Church, without injury to the land, might be obtained from this source, by the proper reservation of the timber which we make in leases, and in time shall effect in the copyhold estates.

3280. Do you propose to give any interest to the tenant in the timber, or to reserve it altogether for the lessor?—The interest of the tenant in the timber would be the having the advantage of it for fencing and buildings.

3281. Is the occupying tenant quite indifferent to the amount of timber growing around his field in the hedges?—I hardly recollect any objection being made by a tenant lessee to the timber growing in a reasonable way. He has the benefit of it for repairs. The improvements that might be made to the lands of the chapter by re-arranging the farms whenever opportunity may be given, with consent of the lessee or at the expiration of the lease, would be very large.

3282. Are the tenants of the chapter principally occupiers themselves, or are there middlemen?—There are both; and to answer the question as near as I can, I should say, that half may be occupiers.

3283. Do you mean half in value, or half in number?—Both in number and value, taking them altogether. Less than half actually occupy; but that proportion are of that class.

3284. Are not a great number of your tenants small holders?—Yes. The best holdings, I think, are those that range from 100*l.* to 200*l.* a year; but we have a great many from 30*l.* to 80*l.* a year.

3285. Are not a number of the leases in Devonshire of church lands of pieces very inconveniently distributed for farm holding, both as to cultivation and as to extent?—In the present state of the leases the property is very inconveniently divided for the due cultivation and improvement of the land. I should look to the necessity of running out many of the leases, simply for the reason that it is necessary to do so in order to make such a re-arrangement as is best for the property. The leases comprise parcels widely scattered from each other; so that, without any violence to existing interests, great improvements might be made by exchange between the lessees before any permanent plan of general leasing was adopted.

3286. Is the process going on much among lay holders of property in the West of England of running out life holdings, with a view to the convenient distribution of the land, and, upon the termination of the lives, a re-distribution with a view to its better cultivation?—I should say that in the lay holdings in Devonshire that process has already taken place, although it remains in some of the estates; but undoubtedly every lay holder would look to the arranging of his farms in the proper sizes for the best cultivation. With regard to powers of alienation or exchange in the Church, I think the power of alienation should be strictly guarded, but the power of exchange facilitated. Alienation should only be for the purpose of reinvestment in land, which in effect is exchange; and therefore I think if the power of exchange were made easy, that it could answer all the purposes that could be looked for by a power of alienation. There is a power in the General Inclosure Act, which I have not yet known to have been acted upon, but I believe will be found to give a sufficient power of exchange. I have hitherto confined my observations to the property of the chapter; I should state that the property of the see of Exeter is almost wholly leases for lives.

3287. Would you convert those equally into leases for years?—I think there can be no doubt, as to that property, that the advisable plan is to convert them into leases for years; and that probably as to these leases, or some portion of them, terms might be made with the present bishop for their non-renewal. In accordance with what I have said in reference to the chapter property, my recommendation would be that the life tenure should cease, that the first opportunity should be taken of converting it by exchange to leases for years, and in default thereof that the lease be suffered to expire. Now, with that view, and with the object of making the property available in the most advantageous way to the Church, it must obviously be desirable that, as far as practicable, arrangements should in each case be made with the present bishop, whereby, a just compensation being secured to him for his right, and *that* without waiting for the dropping of a life, and whether the lease be or be not in a state of renewal, the granting of any further life lease be stopped. The nature of the property of the see of Exeter, the bulk of which consists of manors leased for lives, with the right in the lessee of granting copies for lives, offers very powerful reasons for the adopting of the suggested course,—a course which could not fail to secure ultimately to the see a very productive estate. The see of Exeter has had the misfortune to have had its magnificent property torn from it, and squandered to an extent beyond perhaps that of any see in England. The courtiers in the reign of Henry the Eighth found in Bishop Voysey a man ready to give away that which he saw was no longer to be the property of the unreformed Church. The wise statute of the first year of Elizabeth yet saved what might even have been

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been at the present moment an ample endowment; but the unfortunate adoption of the system of leasing for three lives instead of for twenty-one years has quite crippled the property for the useful purposes of an endowment. The royal recommendations to which I have alluded in speaking of the chapter, of King Charles the First in several letters, and which were addressed at the same time to the bishop, for the turning of leases for lives into leases for years, failed to accomplish their object. Improvident sales of extensive and improvable manors under the Land Tax Redemption Acts further and in a large degree dissipated the revenues of the see; and now at this hour, at this important crisis to the Church, it remains, by a more provident course, to endeavour to win back and to secure to the Church, in however slow degree, (the slowness may constitute its excellence rather than its discouragement,) that which may yet prove an adequate provision for the see of so important a diocese. Perhaps I may be allowed to mention, as an illustration of the ruinous effects to the Church of the life-leasing system, that the best, the most extensive manor of the see is held by a lease for three lives, which has not been renewed for sixty-four years. The manor consists mainly of land grantable by the lessee by copy for lives. The lives in the bishop's lease are of very advanced age, and the lease may be expected to fall into possession in a moderate course of years, if no renewal takes place. It cannot hardly be necessary to point out the importance to the Church of securing the non-renewal of such a lease.

3288. Have you referred to the 68th section of the 3d & 4th Vict. cap. 113., which enables the Ecclesiastical Commissioners, with the consent of the dean and chapter, to exchange the land of the see or of the chapter for other lands?—The clause to which my attention has been drawn, is 3d & 4th Vict. cap. 113. sect. 68.,—the concluding part, is certainly in its language very general, very extensive, but rather indefinite. I apprehend that it must be construed to be confined to the carrying into effect some specific provision of the Act. In regard to the episcopal property, the purposes of the Act the 6th & 7th Will. 4. cap. 77. may be held to extend over the whole property; but in regard to capitular property there is no such general purpose; there may be special provisions applying to particular objects and particular chapters, but no general provision riding over the capitular property. The power conferred by this section, therefore, would not, I think, meet the object of an exchange generally of capitular lands; but, as I have said, I believe that the clause in the General Inclosure Act may be found applicable to that purpose.

3289. Having converted the leases for lives into leases for terms of years, would you actually run those leases for years out with a view to their ultimately coming into a condition of rack rent?—Yes; I should recommend the same plan as in the case of the lands of the dean and chapter.

G. W. Tireman Esq.

G. W. Tireman Esq. examined.

3290. Are you a barrister, residing at Conisbrough, near Rotherham?—I am.

3291. Are you connected with property held under the Church in the county of York?—I am.

3292. Are there any circumstances which you wish to state to the Committee as connected with it?—I have no particular circumstances to state, any further than to express the apprehension of the lessees that some of us may be placed in an awkward position in the event of our leases being allowed to run out.

3293. Do you mean on account of the engagements which the lessees have entered into?—On account of engagements not only by the lessees, but by very much of this property being in strict settlement. I know of instances within my own experience where property of this sort has been entailed in the nature of an estate tail.

3294. Are you not aware that that was altogether unreasonable as well as illegal to entail other people's property in strict settlement?—I am not here to justify that; I am merely stating the fact; and in answer to that I should wish to state that the lessees have gone on by usage in this course, and that the lessees have been in possession of this property under the present system for nearly 300 years.

3295. When you state that the lessees have been going on on the present system for 300 years, do you use those words "the present system" in reference to the number of years purchase, or in reference to the fact that there has been a renewal?—I mean to state that the leases have been renewed from time to time ever since the time of Henry the Eighth.

3296. You do not mean to state, do you, that they have been renewed upon the same terms?—No.

3297. Suppose that you pay a year and a half now, are you not aware that the time was when you paid less?—I have every reason to suppose that that is the case. My own experience as to fines does not go further back than thirty-five or forty years.

3298. You do not mean to assert that there has been no variation in the fine, do you?—No, by no means.

3299. Has

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3299. Has not this kind of property always been considered as subject in some degree to a variation as to terms?—Yes, and they have varied under different lessors,—deans and chapters, for instance, and bishops.

3300. Is there a considerable amount of this description of property in settlement and mortgage?—I believe there is a great deal in mortgage. I do not suppose that there is much in settlement.

3301. Do you think that in mortgage there is a good deal?—On mortgage there is a good deal; and I have known instances where leaseholds for lives have been made the subject of charges for younger children, and raising money on that by mortgage.

3302. The lessee for lives always had a certain interest which he could charge as he pleased, had he not?—Yes, and in most of those leases a clause is inserted calling upon the representative of the lessee to provide for the fines until these monies could be raised.

3303. If he could?—Yes, it would be so.

3304. Was that by insurance?—By insurance; and the common way, when an incumbrance of this sort is created, is by mortgage or sale of the leasehold estate.

3305. Has there not been a meeting at York of late on this subject?—We have had two meetings.

3306. The Commissioners have had an account laid before them of the first meeting; what has been the effect of the latter meeting?—The effect of the latter meeting was merely to receive the report of the proceedings of Mr. Clough and Mr. Newman, and to consider what steps we should take merely to look after our own interests.

3307. Have you anything to add to their evidence at all, or any observations to make upon it?—No, I am not aware that I have.

3308. Have you seen their evidence?—I saw Mr. Clough's evidence, and I think I saw Mr. Newman's in an imperfect state. I should wish to state that we are anxious that the thing should be settled in some way or other, because we find that property of this sort, if brought to market, is depreciated in value in consequence of the supposed changes that may take place in it. At one of these meetings I asked a very extensive land valuer in York what was the present value of property of this sort, taking leaseholds for lives more particularly. He said, "In consequence of the proposed alterations, although at one "time estates of this sort might be sold upon twenty-five years purchase, you could not "now get above eighteen or twenty on the real value of the estate."

3309. Within what margin would money be lent on mortgage upon leasehold property?—The Commissioners are perhaps aware that the rule with respect to advancing money upon real estate is not to exceed two thirds of the value of the estate; and I should say that a prudent person would not be disposed to lend more than one third on this description of property; I mean more particularly leaseholds for lives; and then he would be further covered by covenants on the part of the mortgagor to insure, and that is the only way we could do it.

3310. Supposing, which I am not, and only putting it hypothetically, a lease were run out, wherever that insurance is going on, if the mortgagor went on insuring during the whole term of his existing interest the mortgagee would be safe?—So long as he did insure; but if the mortgagor's interest was gone in the lease, it is very possible his means of paying the insurance might fail.

3311. If he did not perform that covenant in insuring, could not the mortgagee take possession of the estate and insure from the proceeds?—The covenant always runs that the mortgagor shall pay the insurance within a certain time, and if it is not paid, that the mortgagee shall have the power of paying that insurance and charging it upon him.

3312. Putting it merely as a hypothetical case that there was any project of running out the lease, would the security of those people who have lent their money be affected?—So far as this: a mortgagee can call for his mortgage money at any moment; a mortgagor must give six months notice of paying his money. If I have a mortgage upon an estate of 2,000*l.*, and I take that estate into the market, of course my security very much depends on the value of the estate and the state of the market as to that particular moment of time. I have in my eye cases that have occurred some years ago, when property was let at a much higher rate than it is now, where if an incumbrance of that sort had been charged upon the estates, the mortgagor would not have been able to meet those incumbrances; and I remember an estate which some years ago was let at nearly 500*l.* a year which from the depreciated value of agricultural produce has come down to less than 300*l.* a year, and if that estate had been charged with 5,000*l.* at that time the then rent would have been fully equal to meet the interest and also the insurance, but now when the estate is reduced in value there would be great difficulty on the part of the mortgagor to meet that payment out of that particular estate.

3313. Would there not have been the same difficulty in that case if it had been a freehold estate?—To a certain extent there would. Allow me to say with respect to freehold estates, it is of a more improvable nature from its character, and therefore would not be depreciated to the same extent, most probably.

3314. Do you think that more improvements would be carried on on a freehold estate than on a leasehold?—Yes, than on a lease for lives.

3315. Do

3315. Do you think the owners of leaseholds do not improve to the same extent as the owners of freeholds?—Not to the same extent; for instance, in draining; the lessee for lives would be much more cautious in laying out his property in the drainage of that estate than he would upon an estate of inheritance, and for this reason: supposing a life were to drop, and a fresh valuation were to take place on that farm for the purpose of renewal, he would be charged for the improved value, although in some cases the late Archbishop of York did not charge for improvements of that sort.

3316. In many cases do not deans and chapters and other ecclesiastical bodies make an allowance at the first, or sometimes the second, renewal for such improvements by the tenants?—I am not so well acquainted with the practice of prebendal leases as I am with episcopal ones, and my experience as to episcopal leases goes more to leases for lives than for years.

3317. Where so large a margin as two thirds had been taken by the mortgagee there would still be security enough, would there not?—Yes, I think there would.

3318. Do you think the mortgagee would be in danger under such circumstances where he had been so cautious as that?—No, certainly not; but in many cases valuations are made by parties for the express purpose of obtaining money on mortgage, and they have perhaps instructions given to value the estate for such a mortgage, and then they make the valuation accordingly. I have known cases where parties have been called upon afterwards to make good their valuations.

3319. Does the mortgagee take the mortgagor's valuation?—Not always; the plan is generally to have it left to a third party.

3320. In the case of settlement to which you have referred, do they not usually occur where there are freehold lands held by the same party?—It is not always so. The late Archdeacon M——— settled a leasehold estate for lives; in fact an unusual proceeding; and I was rather surprised when it turned out so, though he had a perfect and legal right to do so.

3321. Is it not the more usual custom, when a person has freehold which he settles in strict settlement, that he introduces an additional clause, saying that his leasehold shall go according to the same limitation "as far as the rules of law and equity will permit?"—That is the usual form; we cannot raise an estate tail out of a leasehold for years.

3322. Do you object to re-valuation?—We have no right to object to it, but I am afraid that great difficulty would arise in respect to it; it would be much more desirable for the lessees to have a permanent arrangement made if they could.

3323. If there was length of time enough to give an adequate enjoyment of all improvements created by the capital of the lessee, would not that be sufficient to meet the equity of the case?—I am afraid not. I am afraid the apprehension of an increased fine, supposing the system were to go on, or of an increased rent-charge, would in many cases deter lessees from improving.

3324. Must not improvements be deferred still more at the present moment?—It is so very much indeed, and the great bar to the improvement of these estates is the nature of the tenure.

3325. Anything which extended the period within which any re-valuation should take place would *pro tanto* at least, would it not, diminish that evil?—I should suppose the effect of that would be more seriously felt as the period was approaching at which the new valuation was to take place; for instance, we will say the re-valuation was to take place every ten years; for the first three or four years I should consider that it was so far distant that I should go on improving in the hope that I should gain the benefit of my improvement during the then term, and that by the ten years end I might arrange my farm in such a way that it should not appear to be so much improved as to endanger a high fine.

3326. If some powers were created by which the immediate lessees might grant to their occupying tenants a lease of twenty-one years, quite free from any apprehension of non-renewal owing to the nature of the tenure, and supposing no re-valuation were allowed to take place under twenty-one years, as far as the occupying tenants went would not their outlay be exactly what it would be under any landlord who gave them a lease for twenty-one years?—Supposing that was the custom, but I do not apprehend a term of that length is ever granted.

3327. But if it were, would it not encourage and protect all the tenants outlay?—It might probably have that effect; that is a question that I have never considered. If I was an occupying tenant for twenty-one years I should feel disposed to improve the early part of my term, because when leases are granted under ordinary circumstances, that is to say a lease for seven years, by the four course shift of husbandry, which is the system adopted with us, the tenant continues to run out his improvements pretty well by the time his lease goes out.

3328. Are you aware that the greatest possible improvements are carried on in Scotland upon nineteen years leases?—I am aware of that.

 3329. Are

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3329. Are you aware that towards the end of that time the parties make fresh arrangements?—Yes.

3330. Are you aware also that very large amounts of capital are expended upon terms of limited duration in the way of houses, warehouses, and all kinds of expensive constructions?—Yes, I am aware of that.

3331. Does it not appear from that that a fee is not essential or insisted upon for all such purposes?—Certainly.

3332. Have you any suggestion to offer with regard to a corn rent?—The only observation I would beg to make is this: my experience arises as receiving tithe rents; it is there the corn averages apply; and I find frequently parties sore and dissatisfied because the corn averages do not come into immediate operation. It so happens that perhaps at the very time that the corn is high in price there is a depreciation in the corn rent; when corn gets up again by that time the rent-charge has got down.

Thursday, 5th July 1849.

Ralph Barnes, Esq.

5th July 1849.

RALPH BARNES Esq. again called in, and further examined.

3333. WHAT is the general and leading principle that you advocate on this question?—I should advocate the leading ultimately to a rack-rent system, giving the liberty of leading to that result by increasing the rent periodically and gradually up to a rack-rent; always, however, contemplating a rent governed by principles of moderation, and combined with a system to encourage improvement. The *principle*, I advocate, is, rack-rent.

3334. In lieu of fines, do you mean?—Yes, in lieu of fines. I mean that the Church retain the dominion of the property, and be the landlord, and be subject to all the obligations attaching to that character. My objection is, in principle, to any system of rent-charge.

3335. As a permanent system, do you mean?—Yes. I object to rent-charge in principle, as not being rent for land, but a charge on property.

3336. Would you then impose an increased reserved rent instead of a rent-charge?—Yes. Rent reserved of, and for the possession of, land, is a thing of a perfectly distinct nature from a fixed rent-charge on land, or any rent-charge in perpetuity. I have no objection to increasing the rent reserved gradually, provided it always be "rent," and never be "rent-charge," in the sense in which I understand the one as distinguished from the other.

3337. In what way do you distinguish "rent-charge" from "reserved rent"?—I consider that "rent reserved" is matter of bargain between the owner and occupier; it is that rent which the holder voluntarily agrees to pay for the land,—the result of a bargain with the lessor. I consider "rent-charge" to be a perpetual rent charged on a property and estate vested in the payer; and in that view I should consider "rent-charge," in any shape, and especially where large in proportion to the value of the land, to be the most objectionable property possible for the Church. I should consider that in such a property there is an inherent unpopularity, an invitation to resistance peculiarly dangerous regarding it, as church property.

3338. Do you look upon it as conveying the notion of a burden on another man's land, instead of a price contracted for, for the enjoyment of the land of another?—Most assuredly I do; that describes, in much more accurate language than I had used, precisely what I meant to say.

3339. Would your objection apply to all tithe rent-charges?—It does apply to tithe rent-charges, although in a less aggravated degree. I foresaw, before the Commutation, that it would so apply; in practice it does so apply at this moment; and I can conceive, *that* objection, even in the case of tithe rent-charge, may grow to a very inconvenient height. So long as the Church possessed the tithe itself, tithe, however obnoxious, was always considered as the property of the Church, and every bargain that the occupier of the land made, he considered as a bargain made to his own advantage; it was his own voluntary act. That is not the case with the rent-charge. If landlords had taken upon themselves to pay the tithe rent-charge, which I imagined they would have done, that might not, at least so plainly and practically as regards the relation of the clergyman with his parishioners, or even of the Church with the people, have been the case; but the ordinary practice is, that the tithe rent-charge falls on the occupying tenant to pay as part of his bargain with the landlord.

3340. Would not a rent-charge be rather more felt by the landlord, if he paid it as a strict burden charged on his estate, than if paid by the tenant, who knows it is not his own

own estate?—No, I do not think so; but with whomsoever the actual payment lay, landlord or tenant, the ground of the objection, that it is felt rather as a charge than a rent, remains. In respect of the bishops estates, to which I adverted at the conclusion of my last examination, I alluded to Royal Letters of King Charles the First; and I will, with the Commissioners leave, put in the letter, and the rather because I believe it was a general letter to the bishops, for I find in Wilkins's Concilia, volume iv. page 393, a similar letter to the archbishop of Canterbury. The one to the bishop is entered on the bishop's register. There was also a similar letter of the same date to the dean and chapter of Exeter, which probably may have been a general letter to chapters. The letters are as follow:

Letter from King Charles to the Archbishop.

" Charles R.

" Most reverend father in God, right trusty and right entirely beloved Councillor, " we greet you well. Whereas we did of late direct our princely letters unto yourself, " bearing date the two and twentieth day of June last past, also other our letters to the " dean and chapter of our cathedral church, whereby we did expressly forbid the letting of " any church lease or leases into lives by you or them, or any of your or their successors " respectively, excepting only such leases as were before the date of these our letters granted " for lives, and concerning which we did require both you and every of them by all lawful " means to endeavour that they might be reduced to years again; all which we have done " for the great good and advancement of the Church, as we doubt not in future times will " plainly appear: Now, forasmuch as we have been informed that some, more affecting their " present private gain than the future good of the Church whereof they are members, have " misinterpreted those our princely letters, and do conceive that the meaning is to prohibit " only the letting of such leases into lives as are granted by the dean and chapter of any " church by common consent, and that every particular dean, archdeacon, or prebend who " hath any *corpus* belonging to his dignity might, notwithstanding, dispose of it for lives " without breach of our royal command, as if we would direct our letters to a body in " general, and not intend to include every several member thereof: These are therefore to " will and require you, that you fail not to signify this explanation of our princely pleasure " to your several archdeacons and to the dean and chapter of your cathedral church, that " they may impart it to every prebend; which is, that we do not only lay these our com- " mands upon them and their successors in general, but likewise upon every particular " member of that church whom they may in any way concern, from the highest to the " meanest officer in the same, including vicars choral, in what church soever any such body " is. And that no doubts further may hereafter be made concerning this matter, we will " that these our letters, together with our former, should remain upon record both in your " registry and the registry of the dean and chapter there, that so both they and their " successors from time to time may take notice of them accordingly, as they will answer the " contrary at their utmost perils. Given under our signet, at our honor of Hampton Court, " this 6th day of October in the 10th year of our reign."

Letter from King Charles to the Bishop.

" Charles R.

" Right reverend father in God, right trusty and well-beloved, we greet you well. We " have of late taken the state of our several bishopricks into our princely consideration, that " we may be the better able to preserve that livelihood which as yet is left unto them. " Upon this deliberation we find that of later times there hath not risen a greater incon- " venience than by turning leases of twenty-one years into lives, for by that means the " present bishop puts a great fine into his own purse, to enrich himself, his wife and " children, and leaves all the succeeding bishops, of what desert soever, to us and the Church, " destitute of that growing means which else would come in to help them; by which course, " should it continue, scarce any bishop could be able to live and keep house according to his " place and calling. We know the statute makes it alike lawful for a bishop to let his lease " for twenty-one years or three lives, but time and experience have made it apparent " that there is a great deal of difference between them, especially in church leases, " where men are commonly in great years before they come to those places. These are, " therefore, to will and command you, upon peril of our utmost displeasure, and what shall " follow thereon, that, notwithstanding any statute or any other pretence whatsoever, you " presume not to let any lease belonging to your bishoprick into lives which is not in lives " already; and further, that when any fair opportunity is offered you, if any such be, you " fail not to reduce such as are in lives into years. And we do likewise will and require that " these our Royal Letters may remain upon record, both with your own register and the " register of the dean and chapter of your cathedral church, and that by them notice be " given to all your successors respectively, whom we will that these letters shall concern as " much as yourself, that they presume not to break any of these our commands in the least " manner, as both you and they will answer it at your and their uttermost peril. Given " under our signet at our manor of Greenwich, this 22d day of June, in the tenth year of our " reign. To the right reverend father in God, our right trusty and well-beloved Joseph " Lord Bishop of Exeter, and to the bishop of that see that hereafter for the time shall be."

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Letter from King Charles to the Chapter.

" Charles R.

" Trusty and well-beloved, we have lately taken the state of our cathedral and collegiate " churches into our princely consideration, that we may be the better able to preserve that " livelihood which as yet is left unto them. Upon this deliberation we find that of latter " times there hath not risen a greater inconvenience than by turning leases of one and " twenty years into lives, for by that means the present dean and chapter put great fines " into their purses, to enrich themselves, their wives and children, and leave their successors, " of what deserts soever, to us and the Church, destitute of that growing means which else " would come in to help them; by which course, should it continue, scarce any of them " would be able to live and keep house according to their place and calling. We know the " statute makes it alike lawful for a dean and chapter to let their leases for a term of one " and twenty years or three lives, but time and experience have made it apparent that there " is a great deal of difference between them, especially in church leases, where men are " commonly in great years before they come to these places. These are therefore to will " and command you, upon pain of our utmost displeasure, and what shall follow thereon, " that, notwithstanding any statute or any other pretence whatsoever, you presume not to let " any lease whatsoever belonging to your church into lives that is not in lives already; and " further, where any fair opportunity is offered you, if any such be, you fail not to reduce " such as are in lives into years; and we do likewise will and require that these our letters " may remain upon record in your own register book, and in the registry of the lord bishop " of that diocese, that he may take notice of these our commands unto you, and give us and " our royal successors knowledge if you presume in any sort to disobey them. And further, " whereas in our late instructions we have commanded all our bishops respectively not to " let any lease after we have named any of them to a better bishoprick, but did not in these " instructions name the deans who yet were intended by us; these are therefore to declare " unto you that no dean shall presume to renew any lease either into lives or years after such " time as we have nominated him either to a better deanery or a bishoprick, having observed " that at such time of remove many men care not what or how they let, to the prejudice " of the Church and their successors. And this is our express command to you, your " chapter and your successors, which in any case we require both you and them strictly to " observe upon pain of our high displeasure, and as you and they will answer the contrary " at your and their utmost perils. Given under our signet, at our manor of Greenwich, " the two and twentieth day of June, in the tenth year of our reign. To our trusty and " well-beloved the dean and chapter of our cathedral church of Exeter, and to the dean " and chapter of that church that hereafter for the time shall be."

On the chapter of Exeter having run out their manor leases, I would add that in two recent instances since those mentioned in my former examination, they bargained with the lessee for surrender on the terms of putting an end to the copyhold tenure. The lessee had discontinued the practice, and the lands were all in hand. In one of those cases the lessee took himself a lease for twenty-one years of the lands as demesne; in the other, the chapter, having purchased the lessees interests, sold a twenty-one year's lease to another. I would add also to what I said in my former examination as to the life leases of the chapter, that in my own time, of forty-four leases of tithes, seven of them have been converted from lives into twenty-one years.

3341. By what process?—Three of them by expiration, and four by bargaining for the surrender of the lives.

3342. Will you give the terms of the bargains, the price, the value of the lives, and so on?—I will do so by reference to papers.

3343. State all the particulars, to guide us as much as possible, to see what the principle was which regulated the arrangement, the ages and so forth?—On reference to papers I find the four cases of exchange were as follow:—

A. 1804. There was one life of sixty; the net value was assumed to be 200*l.*, subject to reserved rent and payment to the curate of 50*l.*; the lessee surrendered the life lease, and took a lease of twenty-one years, paying a fine of 480*l.*

B. 1805. There was one life of fifty-eight; net estimated value above reserved rent, 160*l.*; the lessee exchanged this life for twenty-one years, paying a fine of 470*l.*

C. 1812. There were two lives, ages fifty and fifty; net estimated value, 400*l.*; the lease was exchanged for a lease for twenty-one years even without fine.

D. 1815. There were two lives, ages sixty and sixty-six; the net estimated yearly value being 400*l.*; the lessee surrendered, and took a lease of twenty-one years, paying a fine of 1,080*l.*

Of the six remaining tithe leases on lives, one is on two lives, and another on one life, both intended to be reduced to years in the same way.

With the permission of the Commissioners, I would explain somewhat more explicitly the course of management now in progress of the landed part of the property of the chapter of Exeter. The bulk of the property in land consists of ten manors in the county of Devon, six of them in the immediate vicinity of Exeter; they were all formerly, in much the largest portion, copyhold grantable by copy for two or three lives; some with widows estates. The actual proportion of the copy and demesne at the present time is $\frac{7}{12}$ parts copy (or, as to

of

one manor, leases for lives), $\frac{1}{12}$ parts demesne. The present system of management, speaking of it as a general system, not as an absolute rule, is, as I have said, to reduce the copyhold to demesne, and to grant the same by lease for twenty-one years, and also more gradually to reduce the life leases to twenty-one years. These manors comprise, in round numbers, 12,000 acres of cultivated land, the chief part highly cultivated, and in a state, agriculturally speaking, to compete with any lay property. The defect is seen more frequently in buildings; I mean buildings calculated to meet modern improvements in agriculture; but in that respect they are partaking of those improvements in common with lay property. The provisions for obtaining what is desired in that respect would be easy and simple, and practicable, if desired, under the present leasing system. But I would wish especially to point out to the Commissioners how largely these manors exhibit an inconvenient arrangement of lands for agricultural improvements. The 12,000 acres are split into between 400 and 500 holdings, averaging under thirty acres; not only so, but it must be borne in mind that each copyhold estate must necessarily have remained precisely what it was in the earliest periods. I do not mean to say but that possibly copyhold tenements are divisible, and have been divided; but the parts cannot be reunited, or the tenements consolidated; the consequence is necessarily inconvenient, considered as land with reference to improvements. There may be and often is a united occupation, but that in a very imperfect way meets the objection. The permanently inconvenient division of the copyholds of course affects the demesnes, for all are intermixed in the largest sense. It must be a main object then, in looking to the progressive improvement of such an estate, to look to the re-arranging of the lands with a view to its most beneficial enjoyment as property, and most beneficial occupation; that is the object which the chapter of Exeter has pursued and will pursue; and when copyholds fall into hand they re-grant by leases for twenty-one years, but where the intermixture makes it desirable they make it a condition in the lease that the lessee concurs in re-arrangement as opportunity offers; and unless they are left at liberty so to do (indeed they might be encouraged and assisted in such a measure), they cannot make the best of the property. Now it seems to me, that in any modification of the system of leasing, that these circumstances, speaking with reference to the property of the chapter of Exeter, must be continually borne in mind. And, speaking of that property as actually circumstanced, its state will be found, I think, condemnatory of any compulsory system or universal rule, whether in regard to existing leases or a permanent scheme. If discretion, free and unfettered, and dominion, full and absolute, be not preserved, no system of leasing or of management can prove satisfactory. Looking, therefore, to the possibility, at least to some extent, of leases running out, the question may be, to what degree (if at all) and in what way is the lessee to be compensated. I have adverted to an extended term at an increased rent; that of course would be on the condition of concurring in any measure deemed thereafter expedient for the better arrangement of the property, but it may still be necessary or expedient for that object, or for the object generally of improvement, that the leases run out. In such a case I think it would be equitable to offer to the lessee to purchase his interest. It is obvious that no rule could, with advantage or justice to either side, be laid down; such bargains must be left to be worked out practically. A moment's consideration of the variety of elements in such transactions would make that self-evident. There would be the actual state of the land, and all special circumstances regarding the conduct of the lessee, the improvement or outlay he may have made; again, the current rate of interest, and, in case of life tenure, every circumstance affecting the value of the life. If then, prudentially speaking, a rule be impossible, is it possible to lay down some principle directed to meet not only special claim, but generally offering to lessees something beyond the actual value of the lease, some advantage not within his lease? I venture only to put the question; remarking, however, that the number of years purchase given sometimes as the value of a twenty-one years lease are too extravagant to deserve attention. I know that formerly church leases were estimated in this way: What is the value of the fee simple? what will it cost to renew? the residue is the value of the lease. But such a mode of calculation has been long ago exploded. There cannot, consistently with right and justice, be acknowledged any other question but, what is the existing term? and, if requisite, what its actual value? But it is said, the lease has been treated in the way of sale and purchase, or mortgage, or settlement, as of so much value, a value exceeding the value by the tables; and therefore, in any measure having for its object the more beneficial dealing with the property of the Church, that consideration ought to have its weight. Now, for myself, I take leave to deny this. What the lease may have cost in its original purchase from the Church, and what the lessee may have laid out in permanent improvement without having realized the fair amount of benefit, may be a legitimate term in the calculation; but under no circumstances can the current value as between parties, strangers to the Church, be, with justice to the Church, used as a guide affecting its estate. If, in estimating the lessee's interest, we permit ourselves to travel beyond his term, we enter on a region of mere guess-work; we must travel without a guide; justice is disregarded, and dissatisfaction will be the result. There is a fallacy in imagining that because the Church has refrained from availing itself of a certain portion of the profits, that therefore (and really I have never seen any other reason assigned) the lessee is entitled to claim to himself what the lessor has neglected to receive, or thought fit to keep in store. Let us have a clear notion of this sort of claim or expectation. It is nothing but this: Here is a landlord, who is expected at certain periods to sell an interest below its value, because, if he will sell at all, he can sell only to the existing lessee; the lessee alone

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is in the market, and therefore in a situation to make good terms. The claim can never be put on higher grounds than that; that is the nature of the lessee's case at every renewal; that constitutes his expectation; measure of value for such expectation there can be none. The lessee does not pretend that he can force a renewal; such a notion could only serve to expose the weakness of his case; and on what plea of right can he rest a claim to a portion, which must not be equally available in principle for the whole? I have stated plain instances in which the chapter of Exeter have repeatedly, perhaps I might say systematically, disregarded any such notion or claim, avowing at the time their purpose to be, the better management of the property for the interests of the Church. I have shown that they were, in so doing, only following out the principle which has been inculcated in the letters of a prince who foresaw the reign of trouble, and wished to protect the Church. And such has been the spirit of legislation for the Church in the best periods of our history. Now, on the point, so frequently urged as an argument against the discontinuance of the fine-renewal system (I am at a loss to discover in what other way it could be used), that church leases are often in settlement. As far as my experience goes of the chapter of Exeter, it is of very rare occurrence. The manor leases might have been so, they have expired; the detached parcels of land in farm leases are too small to have become the subject of settlement; and as to tithe leases, I find that in fact of the chapter of Exeter's six tithe leases on lives, one, perhaps two, are in settlement; but of the rest, the thirty-eight leases for twenty-one years, I believe only one is in settlement. And on this point it may be remarked, that whatever the lessee may have done in the way of settlement or incumbrance, he has done for his own convenience, with a full knowledge of the extent of his interest, and with all legal advice at his command. The act was his own, and it would have been no more than fair had the terms of his lease restrained him; and in some chapters that is the case. That is, alienation is not suffered, except by licence; and licence is not granted, except on surrender of the lease, and taking a new one. It seems to me that placing this property in settlement is subversive of the true character of lessor and lessee, positively injurious to the lessor. The case of leases being placed in mortgage is a much more common transaction with us, but there are well-known provisions introduced into mortgages of renewable leaseholds to meet the case of non-renewal.

3344. What are those provisions?—Those provisions would be, that in case of the mortgagor not renewing, the mortgagee might sell the property; or might, at his option, renew, raising the fine by a charge upon the property. There is no difficulty in practice about it, more than the necessary expense of deeds on the change. It must be assumed that all existing mortgages have these provisions. May I say a word or two more on the subject of rent-charge. The case supposes a rent-charge which in amount is a very considerable portion of the yearly value of the land. Now, if the idea be, that whatever proportion that rent-charge might bear at its commencement, the improvement of the land would be such that it would soon prove an inconsiderable portion, surely *that* offers no argument in favour of the scheme, in principle, as regards the Church. The actual proportion proposed at the commencement varies, I believe, largely under different calculations, perhaps from forty to sixty-six per cent. Now, is it imagined that a rent-charge of this description would be a desirable property for the Church, the fittest income, looking as well to the interest of the Church in perpetuity, as to its progressive enlargement? Would the annual payment of such a rent-charge be likely to prove agreeable to the feelings of landowners? We are considering the character of a body of tenants holding under the Church, and being in actual possession of the lands of the Church at any given time, under any given mode of lease tenure, and considering what would be the desirable relation to exist between the Church and its tenants, or, hypothetically, between the Church and the holders for the time being in actual possession of the lands. A tenant holding at an annual rent, whatever it be, the result of an engagement of his own, would only consider whether the terms were or not remunerating for his capital and labour; he would never consider such a rent in the light of a burden upon his property, as the rent-charge in any shape or degree undoubtedly would be considered. On these grounds, speaking for the Church, it appears to me that no scheme of rent-charge can by any contrivance be satisfactory or just. Now, by way of illustration, let us see the effect, if a plan of commutation for perpetual rent-charge had been adopted 100 years ago. Suppose there was a farm or farms held under the Church by lease for twenty-one years, of the then yearly value of 360*l.*; suppose those farms to be now of the yearly value of 900*l.*; if in 1749 the estate of the Church had been commuted for the rent-charge of even sixty-six per cent., the highest calculation, the rent-charge which would now constitute the whole property of the Church would be 240*l.*; but in the case supposed, had no such commutation taken place, the Church would now have an estate of 900*l.* a year, subject to a lease for twenty-one years, the fines on which, in the usual course of renewal, would be equal to 260*l.* a year, and over and above that, the reversion, with all its prospective benefits; and the Church's interest in the lands, were it reduced (as is, I believe, proposed in other plans) into possession, would, in the case supposed, be a moiety of the estate, or 450*l.* a year.

3345. Taking two years rent for the fine?—Yes. On that rate the fines are equal to 260*l.* a year. Thus the interest of the Church would be 260*l.* a year for a term not exceeding twenty-one years, and after that the land in possession, with all its prospective improvement, subject to repaying the value of 260*l.* a year for the term, which we have seen would be represented by an annuity of 260*l.* in perpetuity after the existing term, leaving the

the Church in possession of 640*l.* a year, that is, of lands of that value free of lease or charge. Now this is not a mere imaginative case; I give it as a fact arising out of the actual circumstances of four leases, of four farms of lands, of the chapter of Exeter.

3346. When you state the increase of value of these farms from 1749 to the present time to have been from 360*l.* to 900*l.*, is that an instance of the common progress of improvement which has taken place in that interval without any remarkable change having taken place, such as the reclaiming of waste land?—It is an instance of four ordinary cultivated farms, all anciently enclosed, and having remained entire for 100 years; two in Devonshire, one in Somersetshire, and one in Oxfordshire; and I have set down the present estimated value, according to renewals in 1844, 1846, 1847, and 1849, an ordinary, certainly not an exaggerated case.

3347. Do we understand that you are adducing this as an argument against a fixed rent-charge, but not against a reserved rent at proper intervals, reconsidered according to the improved value of the property on which it is raised?—That precisely describes what I mean to say; my objection is to the former, and not to the latter, considering it as rent, preserving the full dominion.

3348. Did this ever occur to you, that there might be a rent-charge established, but that at the time of establishing that rent-charge something should be given *plus* the value, and that that should be obtained at the time with a view to accumulation to meet in another form the rise in the value of land; for instance, you have just stated in one case land has risen in value to nearly three times its amount in 100 years; suppose it to be proposed that such a transaction should be legalized as that there should be a sum also given which should accumulate as a sinking fund, and which would produce at the end of 100 years something like that which you have been stating to be the natural increase in the value of land; what would be your opinion of such a plan as that?—I should object to such a plan *in toto.* It is still measuring the value of land in perpetuity by a present estimation of its yearly value, and then converting it into money, whatever rate money may bear to land hereafter; therefore all the chances of improvement in the land, I might say the certain advantages of that improvement, are taken from the Church; and all the chances, I might equally say the certainty, of disadvantage by changes in the relative value of money to land are taken by the Church; I mean in looking to the relative value of land and money in its course of past and future variation; however, that it must necessarily be left to the choice of parties *sui juris* at all times to make bargains for the mutual conversion, land and money, in which each would be guided by motives peculiar to himself, and would assent only to such terms as he at the time thought advantageous to himself. Still, considering the actual party, to wit, the Church, designed to remain in possession of its own property, the land, for ever, I say that it is in principle most improvident to turn that land into money. Will the Commissioners allow me to add this; that although, far be it from me to pass judgment for others, yet that in all that I have said I bear in mind that I am myself a lessee under the Church, that I have property embarked in church leases. But I have been treating the "rent-charge" as a fixed money payment, fixed in perpetuity. But perhaps it may be imagined that it might be variable, a perpetual fixed proportion of the value, to be ascertained, and reduced to money by periodical re-valuations. I could hardly anticipate gravely, that such a scheme could be entertained. Consider how utterly opposed it is, in principle and practical effect, to that which the lessee is seeking; and can we seriously imagine that it could be a lasting tenure? How entirely subversive must it prove of the result we are in search of, the best management of landed property? Ownership retained shorn of all its useful character; tenantship fettered as if on purpose to destroy its useful powers. It would be, I think, the voluntary introduction of the most inconvenient tenure that ingenuity could have devised.

3349. Have you ever calculated what the gain of the Church would be, of running out the tithe rent-charges?—I have, in the case of the chapter of Exeter.

3350. What would it be?—I conceive this would be the result:—I am going on the return made by the chapter to this commission:—Take the leases for twenty-one years at seventeen and a half years to run, the net yearly value at 8,750*l.*, the leases for lives of the net yearly value of 1,750*l.*, the life interest equal to a term of thirty-five years; now, on the supposition that an annuity for seventeen and a half years in possession is equal to an annuity for seventeen and a half years in reversion, of double that amount, or of its single amount in perpetuity, and taking the present produce in fines to be, on the leases for twenty-one years 2,500*l.* a year, and on the leases for lives 250*l.* year; then as to the leases for years we have to secure an annuity of 2,500*l.* for the term of seventeen and a half years, and in exchange for it there might be granted, to take effect at the end of that term, either an annuity of 2,500*l.* in perpetuity or a larger terminable annuity; if for seventeen and a half years, it would be an annuity of 5,000*l.*; then there would be receivable for seventeen years and a half 2,500*l.* a year, and afterwards either 6,250*l.* a year for ever, or 3,750*l.* for seventeen and a half years, and after that 8,750*l.* a year for ever. As to the leases for lives, we should have to secure an annuity of 250*l.* a year for thirty-five years, which would be secured by the grant of an annuity to take effect at the expiration of that term, of 750*l.* in perpetuity, or a larger terminable annuity; and so there would be receivable for thirty-five years 250*l.* a year, and afterwards 1,000*l.* a year in perpetuity, or less for a certain term with the whole as a perpetual reversion. The result on both years and lives would be, supposing the plan of charging in perpetuity to be adopted, that, the present income being secured for the terms

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of years supposed, the additional income at the end of seventeen years and a half would be 3,750*l.*, and at the expiration of thirty-five years 1,000*l.* more; together 4,750*l.* In this case I take the estimated net income above the reserved rent. The reserved rents on tithe leases are larger in proportion than in leases of lands. Previous to any calculation on the aggregate returns of the tithe rent-charge it will be necessary to ascertain the reserved rents.

3351. Do you know what proportion the reserved rent bears to the rent-charge in case of tithes?—I find that in the case of the chapter of Exeter it is just twelve and a half per cent.

3352. Is it your plan that ultimately the estates should be in the hands of the Church, and be let at rack-rent?—That is my object. I am aware that much of what I have said may appear to assume an argumentative character. Indeed I feel deeply interested in the result of this inquiry. If mistaken, it is a mistake in judgment, but a judgment not hastily formed or without materials. If warped, it is warped by attachment to the Church in its actual state in England, and to its institutions in England. Deeply imbued with those impressions, with a steady eye on the goal I would reach, I only venture to express my earnest hope, and, more than that, my confident expectation, that the principle of retaining and preserving the lands of the Church, *in their full integrity*, will be adopted.

3353. Do you happen to have any experience of the management of estates to any great extent by public bodies where those estates are let at rack-rent?—I have not. I have not acted for any such bodies generally. The chapter of Exeter have but one farm at rack-rent; but I never found the slightest difficulty about it.

3354. Are you not called upon to make considerable outlay for improvements and allowances to tenants?—It is part of the proposed plan, that there should be a body to apply to for those improvements; and it may be observed that one of my suggestions has been, that the rent treated as divisible rent might be eighty per cent., leaving twenty per cent. to be dealt with for all those purposes. I see no difficulty whatever in regard to management by a body aggregate, having stewards and surveyors of the best description, for the management of such property; and my apprehension is, that applications from the holders in possession for all such improvements would be dealt with more regularly, and carried out in a more uniform manner, and upon more permanent principles, than in the case of individuals. In short, I mean that I should confidently look to the improvement of farms, new buildings, and all other agricultural progress being effected under such a system in the very best manner, to the encouragement and satisfaction of a best class of tenantry.

3355. Do you think in fact that a public body would manage their estates as a landlord better than a private person?—Yes, I do. Taking the whole of private property in the aggregate, and looking to the average of the class of landlords, is it not a fact that the estates of the largest proprietors and most permanent are the best managed?

3356. Is there not a difference between a public body managing an estate in the produce of which they themselves have no personal interest, and one which that same body is administering for its own temporary interest, having no permanent or inheritable interest in it?—I conceive that the argument applies to any permanent and competent body, whether they have the personal interest or not, and although they have only a temporary interest, and the interest in perpetuity is in the Church of which they are members.

3357. Take the case of the trustees of the Charterhouse for instance, who have a large estate. They have no interest whatever in starving posterity for the sake of the present; but a chapter body for every improvement the result of which is distant would have to make present personal sacrifice; does not that therefore make it not quite so clear that the permanent interest of an estate so held under such a body at rack-rent would be provided for?—I by no means anticipate any such state of things. In the first place, I propose it to be part of the plan that a fund be laid up always ready for improvement saved out of the rent; but without reliance on any such reserve my experience induces no distrust whatever in the management of such a body as a chapter.

3358. Do you imagine a condition of things in which the present holders should only be entitled under any circumstances to receive a certain proportion of the rent?—No; that does not follow as the consequence.

3359. Did you not say there was to be set apart twenty per cent. for improvement; then they are only entitled to eighty per cent.; is not that so?—I meant that twenty per cent. be reserved; not appropriated strictly, only impounded.

3360. Then do you suppose an estate in which a proportion of rent is annually set apart for improvement which cannot be appropriated by the existing holders of the property?—Yes, practically speaking, I do mean that. In looking to the interest of members of such a body it might be viewed in much the same light as the funds now, practically, in all chapters, set apart, either provisionally or absolutely, for the expense of the fabric. In the chapter of Exeter there is no specific and distinct fund absolutely appropriated for the maintenance of the fabric. It is not a matter of indifference to the members, speaking of their pecuniary interests, whether the fabric requires more or less; but they sit down honourably looking only to the actual state of things every year, having before them an estimate of what is reasonably wanted. Certainly they may sometimes postpone what can best be, on the probable estimate of the amount of the funds, applicable in the year; but they never

never consider any other question in the main but what is necessary for the fabric, and set aside the money necessary to meet that object.

3361. Have they had of late years to incur considerable expense in the restoration of the fabric?—The putting the fabric into a state of repair from a state of non-repair began many years since, before my time. During my time it has been very much of an average annual sum; and the fabric is now in a good ordinary state of repair, but must always cost about an average sum, varying, perhaps, in the proportion of ten to fifteen.

3362. Was there a time when they had to incur any extraordinary expense in putting the buildings into repair?—I should say yes; but I speak on recollection at the moment.

3363. Was that owing to some previous neglect?—Certainly. I can only say that for forty years there has been no neglect.

3364. It is possible, is it not, that a body may, in regard to general duties of that kind, neglect them from time to time, and not lay out as much upon keeping their property, whether the fabric of the church or farm buildings, in the repair which it would be their duty to do for the general maintenance of the estate?—I think we may with perfect safety rely upon a body of the description we are speaking of making rules for their own government which should meet in the most permanent way the object, either by creating a fund beforehand to draw on, or by charging the property, if they were allowed to do so, in the same manner as they are allowed to charge for expenses of tithe commutation or inclosure, or a parson for building on glebe.

3365. When you spoke of eighty per cent. being given to the existing members of the chapter, did you mean that they should never have more than eighty per cent., and that there should be a per-centage or certain proportion permanently set aside for such purpose which was not wanted in any one year, and should accumulate for future demands?—I would describe what I mean in this way: that at the commencement a certain per-centage should be set aside, which must be governed by the nature and wants of the property, and that such fund should be considered as an accumulating fund, but it might be impossible to predict whether that would accumulate to too large a fund or be found not enough, so that the per-centage would always be liable to revision.

3366. Do you mean ultimately to leave it to the discretion of parties having only a life interest to lay out money the return for which may be distant, and which at any rate is an immediate sacrifice on their own parts?—I should consider it quite safe, speaking of chapters, so to do. I should look to its constituting a part, I might say I believe truly the best regarded part, of their interest in the property, the interest they would take in its due management and improvement.

3367. Would you prohibit them touching the sinking fund of twenty per cent. when it had accumulated; would you take care they should not divide that, and they should only apply that to the purpose of increasing the particular value of the property?—Certainly I would do so, unless it became too large. Any rule of the kind must be subject to revision.

3368. If it became too large, is it your opinion the owners of the property at that time might then divide it, or reduce it to a convenient size, according to their estimate?—It must be under some control. If I were asked my private opinion, I would have it put aside permanently and absolutely, not for division, but for the purposes of the Church. It is not destructive of the proper interests of the managing body to set aside a fixed portion for a specific object.

3369. Is not the interest of a chapter in managing the property at rack-rent different from such a body as the Charterhouse, for instance, who have no personal interest in the matter?—The personal interest of the chapter, that is, the separate interests of the individual members, would be made subservient to the larger interest they felt in the improvement of the property. Their personal interest and character is a guarantee for faithful management rather than the reverse.

3370. In the case of a public body, such as the Charterhouse, they have no personal interest, whereas in the case of a chapter they have a personal interest; are the latter, therefore, under these circumstances, as well qualified to manage the property at rack-rent as the former?—I think practically better qualified. It is just the difference between a trustee having an interest, a personal interest, in the corpus, and a mere trustee. I say, that a chapter feels an interest in the corpus, not merely in the income; and I have shown proofs, I hope, of it, in the management of the chapter of Exeter.

3371. Should you imagine a chapter would be a good body to manage the episcopal estates?—I should think it an excellent arrangement. I know of no better body. They are by the constitution of the Church the council of the bishop for his temporalities as well as spiritualities. The bishop, except under the enabling powers of the Act of Henry the Eighth, can make no grant without the confirmation of the chapter. The chapter indeed might be a better manager in their own neighbourhood. It might depend on the locality of the estates.

3372. Supposing the diocesan estate was all within the precinct of the diocese, do you imagine the chapter would be a good body for managing all episcopal estate?—It so happens that in our case much of the bishop's property is in Cornwall; but really that is unimportant. I apply what I have said to the whole diocese.

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3373. Is there any mining property belonging to the bishop?—Yes; in Cornwall.

3374. Have the chapter any?—Very little; of very inconsiderable value.

3375. The bishop has a little, has he?—The Land Tax Redemption Act reserved the minerals, so that in the manors sold, of the bishop, in Cornwall the minerals were reserved; and looking to them, with the manors that he now retains, I should say the bishop's mining prospects might fairly be esteemed considerable.

3376. What is the system you adopt with reference to lands of chapter property on which renewal is impending?—The ordinary course is, at the time the lease comes to be renewed, to send the chapter surveyor to make his report upon it. That is not invariable in every case of renewal; sometimes the same survey may be taken for two renewals; but, subject to that, the ordinary course is, to send the surveyor, and act upon his report.

3377. Do you send notice to your lessee, or does the lessee approach you in the first instance?—The practice of the chapter of Exeter is, not to wait for an application from the lessee, but at the usual time to state the terms; at the same time occasionally I have previously asked the lessee whether he intends to renew.

3378. Upon what points do you find difficulty in coming to arrangement with the lessees; is it upon the number of years purchase, or upon the net value which shall be attributable to the property?—I have not meant to say that we do find difficulty; if I said anything of the kind it was in reference to tithe leases. It is not our practice to communicate to the lessee the surveyor's report. He knows the ordinary rule of the chapter, and therefore can calculate on the estimated yearly value. If he remonstrates against the fine, on the ground of its exceeding on the given terms the annual value, and gives any proof of it by actual letting or other evidence, *that* is always considered; and, as I have said, the chapter, although their fine is set upon one and a half year of the surveyor's gross value, always consider whether it may exceed two years of the net value; and if it should be found to exceed that, the practice is to reduce it to two years net value of land.

3379. Do you ever make terms with the lessee who is disposed to lay out money in improvement upon farms as to the amount of fine to be taken on the next renewal?—We never make any stipulation as to a fine upon a next renewal; we have no power so to do; but it is known to be the practice of the chapter, that for improvements in building or other permanent improvements no additional value on that account is set down upon the first renewal, if it take place in the regular course; and I think I have known cases where if that renewal has occurred soon that the additional value has not been considered for two renewals. I now recollect instances in which the consideration of improvement by building has been considered in setting the fine for more than one renewal, and even more than two renewals.

3380. Was that without any previous contract on your part?—Yes. We can make no previous contract.

3381. Has the party made his outlay on the faith and expectation of some such consideration being made?—It has not been done by any bargain; but they know that such is the practice.

3382. You say sometimes the consideration of it is applied to one renewal, and in other cases to two, and in other cases to three; how is the lessee who is about to lay out his money on property to know beforehand, without previous communication, at what distance of time his improvements will be valued against him?—He could only know by application to the chapter clerk, and I should give him to understand what I have said. I think I have never beforehand given any expectation beyond one renewal.

3383. Then is there a previous communication?—Yes, there is, to the chapter clerk, and it may be to the chapter, but it is not the practice to make any beforehand resolution of chapter.

3384. Would there be any note of that, to show the transaction, in any case of a change of officer?—Yes, certainly; it would appear on the chapter books. I mean there would not be a formal act of chapter.

3385. Do you make the same consideration for outlay, whatever the nature of the improvement, whether in building, as in dwelling houses to let, or in farm improvements?—In case of new buildings the previous consent of the chapter would be asked, and, if given, given on specific and recorded terms; perhaps the lease divided, and leases taken. In case of letting farm buildings we may consider that what is done is no more than the lessee is bound to do. Improvements by building come to be considered more frequently in leases of house property than in the case of farms; and in the case of houses it is more ordinarily understood as a rule that the improvements will not be valued at the next renewal.

3386. Have persons been willing to lay out considerable sums of money in the way of building upon the faith of this kind of understanding with the officers of the chapter?—Answering this question in the general way in which it is put, I think I am warranted in answering in the affirmative; but I will distinguish. Speaking of farm improvements, whether by building or otherwise, where the farm is of a size to warrant it, I believe that improvements have been fairly made; but our chapter holdings are generally too small to warrant the

the expectation of larger improvements. I have known houses of a superior quality built on a twenty-one years lease; but it is rare, and not prudent. Such an object is not sufficient whereon to build a system, and if desirable might be easily effected by special consideration. As to house property, speaking of our chapter's houses in Exeter, I find that the present system works well; I see no reason for altering it. The houses are kept up and improved, as occasion requires, equal to the neighbourhood. A system of obtaining the rent beforehand, in the shape of fine, is a very good security for the property being so maintained. The system of leasing for fine, applied to house property already improved to its due extent, is in principle good. The lessor secures the due consideration. The lessee secures his adequate interest. The lessor wants (for the purposes of the property) no dominion beyond that which he retains. The lessee may, with advantage to the property, be left to that discretion which the lease allows, and wants no more. The only inconvenience which I have experienced in regard to leases of houses is the want of power to lease for more than twenty-one years houses in country places.

3387. Upon what tenure does building generally take place under the chapter of Exeter?—All our houses are in the city and suburbs of Exeter, and nearly all held on leases for thirty-one years. Some that were on forty years were reduced to thirty-one years, for the sake of uniformity.

3388. Are parties willing now to build on that tenure?—I am speaking of houses built, not land let for building. The chapter has some building ground, which I think they could not let to advantage to build upon, on a thirty-one years lease. They would be authorized, under the Ecclesiastical Commission Act, to grant leases for long terms on ground rents, without fine, half the benefit going to the Ecclesiastical Commissioners; and the chapter of Exeter would have no hesitation in adopting the powers of that Act; but, speaking at this moment, building speculation is rather at a stand. The existing powers for letting land for building purposes seem to be sufficient.

May I add a few words on the origin of the system of leasing for fines, a topic to which this inquiry naturally leads. I have described how it commenced in the church of Exeter. It is most certainly not founded on ancient custom. It was introduced by no forethought, and it involves no principle. The system came in, upon leases granted after the enabling Act, Henry Eighth; but not only it was not the necessary consequence of those leases, not only did not the Acts of Henry the Eighth or of Elizabeth contemplate the system, but the system of leasing at all, was not the primary intention of the Act of Henry the Eighth, and as to the Acts of Elizabeth they were simply restrictive. It is true that church leases came into practice after the enabling Act, in point of time; but that Act, so far from being an Act to encourage a system of leasing, expressly excludes out of its enabling power leases of lands "which have not most commonly been letten to farm, or occupied by the farmers "thereof, by the space of twenty years next before such lease thereof made." It did not enable or invite a system of leasing, as to land which had not before that time been leased or farmed. Now, the manors of the Bishop of Exeter or of the chapter of Exeter, and, I apprehend, episcopal and capitular lands in general, had not been previous to that Act in lease or farm. True it is, that after the passing of the Act, whether taking a hint from the spirit of the times, or yielding to the cupidity of laymen, the bulk of capitular and episcopal property was leased, and leased for those long and unreasonable terms which the statutes of Elizabeth forbid. Thus it was, I believe, that the system of leasing arose out of the occasion; renewal followed, and fine as a natural consequence of renewal. But it is a remarkable circumstance, curious perhaps rather than instructive, that although chapters, without recourse to the enabling Act, granted those long leases, bishops, not being authorized by the Act to grant leases without confirmation beyond the specified term, disregarded the Act, and proceeded, with confirmation, to grant leases for long terms. The Bishop of Exeter granted, with confirmation, leases of those manors, which he afterwards alienated, for long terms of eighty and ninety-nine years; and why? because the Act conferred no enabling power at all in respect to lands not before leased. And every first lease by a bishop of lands not leased before the Act, and so not within the enabling power, if made without confirmation, would have been invalid. In an inquiry into the system of church leasing, such considerations may not be out of place; and in adverting to the history of the system, we may be thereby reminded, that its history is uniformly one of restraint and non-alienation; let us not at this age reverse it. The true policy of the age rather is to part with no property, to wait rather than anticipate, to provide the means by terminable charge rather than perpetual, and thus to preserve the actual endowment entire for the purposes of the Church. History, assuredly, affords no argument in favour of legislation to help to alienation. If the state interfere, history would rather point to the opposite direction. The Church has it in its power at present, without parliamentary aid, in many ways, to adopt a more advantageous system of management. The estate of the lessee offers no legal obstacle. If then, the aid of the legislature be proffered, the only sound principle is to assist the Church in the permanent preservation of the property, for the maintenance and enlargement of the Church.

I wish also to be permitted to say a few words about the land tax redemption sales. They were made, in the case of the chapter of Exeter, on a most ruinous system. As to control or management there was, practically, none. Six manors were sold, of copyhold life tenure, four of them of large extent, and of the most improvable description, and at about three

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three years purchase, or less. Houses of the best class sold, and those of inferior description retained; a farm cut out of an entire manor; whole parishes sold without reserving an acre for glebe, in fact with no forethought at all. In the case of the see of Exeter two manors were sold, very extensive, and of which the improvable value had never been brought into contemplation, and on much the same terms; and what makes the thing worse, not for redemption of land tax, merely brought by construction within the powers, and in truth and result for investment in the funds. It was under the influence of a deep sense of the spoliation and impoverishment which had been effected by means of these sales that I made to the chapter the proposal referred to in my examination of running out the leases of the remaining manors; and moreover, on reflection, I think that the fact may well operate as a beacon to warn us of the danger of again opening the door to such improvident and wasteful proceedings.

Thursday, 19*th July* 1849.

The Reverend Francis Martin examined.

Rev. F. Martin.

19th July 1844.

3389. Are you the senior bursar of Trinity College, Cambridge?—Yes.

3390. In that capacity have you had the management of the college estates for some time?—I have had the management of the renewals of leases since 1837.

3391. Has any change taken place in the system of renewing, or in the terms, within your cognizance, or any previous time of which you have any record?—Yes; changes have taken place from time to time; and I believe I can state what they have been, from the foundation of the college.

3392. Will you state what changes have taken place from time to time in the system of the terms of renewal of the college estates?—Until 1660 the leases were for twenty years, renewable at the expiration of seven, allowing 11*l.* 3*s.* 6*d.* per cent. compound interest to the lessee.

3393. Do you mean that you allowed the lessee the advantage of interest of 11*l.* 3*s.* 6*d.*?—Yes. From 1660 to 1700 the interest allowed was greater, namely, 12*l.* 6*s.* 1*d.*; that is to say, the fine taken every seven years was one year's clear value, which gave the lessee 12*l.* 6*s.* 1*d.* per cent. In 1700, when Dr. Bentley became master, the rule which he attempted to carry out was to allow the lessee only ten per cent.; but the improved system was not rigidly adhered to; the seniors, who with the master had the management, wished the terms to the lessee to be easier, and frequently would not adopt the master's views in the matter, so that the interest allowed from 1700 to 1740 varied from ten to twelve per cent., more frequently twelve per cent.; in most cases they were desirous at any rate to secure the renewal; from 1742 to 1750, or about that time, ten per cent. was allowed to the lessee on renewals; from 1750 to 1790 nine per cent. was allowed, sometimes, however, only eight per cent., and once or twice I find seven per cent. especially mentioned as the rate, but nine per cent. was the ordinary rule.

3394. Are you speaking throughout of common farming property?—Yes. I have brought here a book containing the particulars of every lease granted between 1747 to 1802, with the value, reserved rent, mode of calculation, and amount of fine; every thing is expressed clearly and accurately. From 1790 to 1802 between seven and eight per cent. was allowed to the lessee; in fact, a fine of two years value, that is, twice the clear value of the estate, after deducting the reserved rent, was taken for a renewal of seven years lapsed in a twenty years lease. From 1802 to 1811 a fine of two years and a half's value was sometimes taken, but more commonly two and a quarter, together with the expenses of the lease, which were considerable, and thus the sum paid was between two and a quarter and two and a half year's value.

3395. Do you suppose the expenses were not included in the former calculations?—Yes, they were, as far as I can make out; but at that time the expenses were not so heavy. The expenses consisted of the solicitor's charges, and certain fees to the bursar, which latter are still paid, and amount to nearly two per cent. upon the fine; but the stamp duties were not so high formerly.

3396. Have you what are called "seal fees"?—No, we have not, except 5*l.* on occasion of an alienation.

3397. Not on an ordinary renewal?—No; there used to be sealing money paid, but rarely, if ever, within the last 100 years.

3398. State the next change?—From 1812 to 1821 six per cent. was usually allowed to the lessee.

3399. How many years purchase was the fine?—2·61 was our multiplier generally, sometimes only two and a quarter; in the case of one or two houses, seven per cent. was allowed. Six per cent. was the ordinary rate. From 1821 to the present time six per

per cent. has been invariably allowed to the lessee in calculating the fines. That is all I have to say about the interest allowed to the lessee; but other extremely important changes have taken place as to renewing and running out our leases.

3400. Is the determination to make those changes recorded in definite resolutions from time to time in your books, or do you draw the inference merely from the terms of renewals?—It is specially recorded in the book before alluded to, and each case of renewal is there signed by the master or vice master; particular note of the great change in 1790 is made in the following words: "From this time the fines are to be calculated upon the principle of "allowing only between seven and eight per cent. to the lessee for the fine advanced, and "taking two years value of the fineable rent, instead of 1·64 as heretofore." Two pages further in the book there is this special memorandum: "This fine is set upon the old "calculation, allowing nine per cent., an agreement having been made before the master "and seniors adopted the new method of allowing only between seven and eight per "cent." All changes were specially agreed upon by the master and seniors; I have no doubt that they would be found in the conclusion book of the college.

3401. Were the fines set upon the gross or net annual value?—Lately always on the net; and it was intended to be so formerly, but perhaps the deductions from the gross value were not made so definitely as in later times.

3402. What do you consider as the net fineable rent?—The net fineable rent is the gross rent after the deduction of the reserved rent, and all the expenses which are covenanted in the lease to be borne by the lessee.

3403. Do you make allowances for repairs?—Yes.

3404. What per-centage is estimated for repairs?—The course generally followed is to allow what the surveyor says is necessary; but he commonly makes his valuation on the express understanding that the tenant is to pay for all repairs, &c., so that we have not to make any deduction; the valuation is made on the hypothesis that the lessee is to pay all taxes and repairs of buildings.

3405. When you have made changes has the principle of those changes been made known to the lessees?—Yes.

3406. Have you always told them how you came to your conclusions?—It is difficult to say what took place, in past times, but from casual correspondence, which remains, it appears to have been known by the lessees. Since I have had the management it has always been known.

3407. Have you not stated that the college is now going on the principle of asking so much of the tenant?—Yes; six per cent. is allowed.

3408. Is any formal statement of that kind made to the lessees?—Yes, generally; and the whole calculation given.

3409. Is there a formal statement made to the lessees that you mean to calculate by a higher or lower table, as it may be?—There has been no change since I have been bursar; indeed, since 1821 it has been invariably six per cent. I do not object to telling the lessees what deductions we make, or to giving them the whole calculation, so that they may know our estimate of the value.

3410. Have you been making other changes besides a change in the rate of interest allowed to the lessees from time to time?—Yes.

3411. What are they?—The most important is running out of some leases, and increasing the reserved rents very considerably in others.

3412. Upon what principle have you gone in selecting those for running out and those for increasing the reserved rent?—The first that were run out were leases of land in the neighbourhood of Cambridge.

3413. Was that from a wish to become owners at rack rent?—Yes.

3414. Was that property selected because you were able to manage what lay near at hand?—Yes; I have no doubt it was so.

3415. To what extent has that gone, and within what period?—One of the first was the farm and tithes at Barrington near Cambridge; when I say "tithe," I mean a rent-charge under an inclosure act; it was not the collecting of tithe in kind.

3416. Would you call that a tithe rent-charge?—Yes; and there was a considerable farm independent of the tithe. That lease expired in 1807, and was one of the first that was run out.

3417. Was that done as a commencement on a principle of running out?—Yes, I think it was; but it was a great sacrifice to the existing body, and, consequently, they could not carry out the principle, except very gradually, and until a later period. The farms so run out at Barrington are let for 500*l.* to 600*l.* a year, and the tithe worth 300*l.*, the rent was probably somewhat less in 1807. Another instance is a farm at Bottisham, seven miles from Cambridge, the lease of which expired in 1814, and since that time it has been let at rack rent from 700*l.* to 900*l.* per annum. I may specify another case, which is Trumpington rectory, a lease of which the college refused to renew in 1809.

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3418. Was that on lives or terms of years?—It was a lease for twenty years; we have no leases for a longer term, and none upon lives. In this case the college refused to renew, although the lessee applied for renewal at the usual time. The statement in the college book is, "Mr. Pemberton applied for a renewal of this lease in course, which was "unanimously declined, with the intention of suffering the lease to run out."

3419. Was that lease of tithe?—No; it was a farm.

3420. Was it increasing in value from its proximity to the town?—Probably so. It was good useful land, and may have increased from proximity to the town.

3421. Was much of it likely to become building land?—I should say that there was a possibility of it, but I do not think a probability.

3422. Did that circumstance enter into the calculation of the college?—It will appear by what is stated in the book on the occasion.

3423. Read what the bursar for the time wrote down on that occasion?—First, the names of the master and eight seniors who came to that resolution, being an important one, are given, with the following memorandum in the hand of the bursar, Mr. Hailstone:—"In "coming to this determination, the board seemed to be influenced in a great measure by "the two following considerations: First, it was acting in conformity with the principle "adopted of late years of enabling the college to augment their reserved rents, thereby ren- "dering their estates more productive and their funds more steady; and this principle they "have in many instances already carried into effect, of which the case of Barrington affords "a notable example, also the case of Darfield. Second, in the case of Trumpington it was "thought that a considerable improvement might take place, and at no great distance of "time, from circumstances which at present it is not possible to take into the estimate of "its value, for if the design of building in that part of the town be carried on, it must needs "enhance the value of all property contiguous to the new buildings, in which case our "property will partake in a very considerable degree of the general improvements." In 1820 eighteen years of this lease had expired, two only being left, and the lease was then renewed, the reserved rent being trebled, and 30*l.* beside, as rack rent for that part (about fifteen acres) of the land which might possibly be used for building next to the high road, and which was specified to be let only from year to year, the college having power to enter on that part of the property at a year's notice. By this arrangement of trebling the rent the reserved rent was made more than one half of the rack-rent value.

3424. Excluding the 30*l.*?—I cannot speak accurately, but I believe the reserved rent of that estate to be upon an average above 300*l.*, and the rack rent about 600*l.*; the reserved rent is partly in money and partly in corn.

3425. At that time there were only two years of the lease to run?—Yes; that was in 1820. In 1840 the second lease expired, and we then granted only a twelve years lease, with the same reserved rent as before.

3426. Have you been granting leases renewable at intervals short of the whole period?—Yes; when leases were suffered to expire fresh leases were occasionally granted for shorter terms; for ten, twelve, or fourteen years.

3427. Have considerable improvements been made on the land at Trumpington leased in this way?—It has only been cultivated in the ordinary way.

3428. Has the lessee in this case been the immediate cultivator of the soil?—No; the farm has been underlet.

3429. Has that been in smaller portions?—No; chiefly in one farm. It is a compact farm of 313 acres. It is in a ring fence.

3430. Has there been no considerable improvement that you are aware of?—No, certainly not.

3431. Has the nature of the place admitted of such improvements?—No.

3432. Has it been as well cultivated as the average of lands held in fee simple in the neighbourhood?—Quite so, I should say.

3433. Having the same kind of buildings?—Yes. It is managed just the same as our lessee Colonel Pemberton's own land, which he underlets; I do not believe there is any difference.

3434. Are there buildings upon the lands?—Barns, and a decent cottage or small farmhouse, sufficient for a bailiff, not for a substantial farmer.

3435. Has it been a substantive farm by itself?—Chiefly a farm by itself.

3436. Where does the farmer live?—He lives, I believe, in Cambridge, in a house of his own, and perhaps has a bailiff managing it. I may observe, that this principle of increasing the reserved rents, by doubling, trebling, or quadrupling them, has been very generally adopted, commencing about the year 1821, soon after Dr. Wordsworth became the master.

3437. Has that been attended with difficulty on the part of the lessees?—Not much; though I think occasionally it has been the cause of running out leases.

3438. Was that because they did not like to have a larger annual charge by way of increased rent?—Yes.

3439. Would

3439. Would they have preferred the old system of fines?—Yes.

3440. Have the majority accepted the terms of increased reserved rents?—Yes; nine tenths at the least.

3441. On what ground did those who objected do so, do you recollect?—Merely, I believe, because it had a tendency to reduce the lease to rack rent, and they did not get the advantage of six per cent. interest on so large a portion of the value of the estate.

3442. It was not from objecting to a change in the nature of the payment, but that they thought they did not get as beneficial terms?—Certainly.

3443. Would they have objected to the principle of converting the fine into an increased reserved rent, provided the terms had been equally beneficial?—I do not see how they could be equally beneficial, because if the lease were converted into one at rack rent they would lose all the interest of money, and so in proportion as the reserved rent is increased.

3444. Suppose you had allowed them a larger interest of money than when you received nearly the whole by way of fine?—That would have been detrimental to the college; the rent was small, and we made it large, which they objected to.

3445. Might you not easily arrange to receive such an annual rent as would make it more beneficial to the lessee than to pay by way of fine?—I do not see that we could, except by undervaluing the estate. Supposing that we take the real value of the estate, then the lessees object to pay a fine calculated upon a small portion only of that value, the remainder being at rack rent, because they only get the advantage of great interest upon that smaller portion.

3446. Could you not come to exactly the same conclusion by altering your tables?—Yes; but we could not alter the tables, allowing a greater interest, without loss to ourselves; any idea of change in the rate of interest never came into the question.

3447. You began by saying your fines were calculated by six per cent. tables; suppose a fine so calculated to amount to 600*l.*, if a proportionate part of that were converted into rent-charge, would that alter the amount of burden on the lessee?—I do not clearly understand how it is to be done.

3448. Taking the fine upon the whole in the first instance, and then converting a portion of the fine into a rent-charge; what is the difficulty in that?—I do not know on what principle that conversion would be made.

3449. On the principle of allowing so much per cent.?—That is not the principle we followed in increasing the reserved rents; our principle is, supposing the value of an estate to be 300*l.* per annum, to take 100*l.* or 200*l.*, say, reserved rent, and calculate the fine on either 200*l.* or 100*l.*

3450. Do you discount the lessee's future rent for him at six per cent., and he, liking the rate of discount, is willing to pay the fine?—Yes, exactly.

3451. You have now been speaking of conversion from fine to rack rent at the end of a term; have you ever done that in the middle of the term, that is to say supposing a lease for twenty-one years renewable every seven years, have you ever said, when the first renewal came at the seven years, "We will not renew for a fine, but we will increase your rent"?—No; we have always waited until the expiration of the lease. When the system commenced in 1821, the increased reserved rent was not to take place directly, but at the end of thirteen years, when the old lease would have expired.

3452. Have you constantly done that?—Yes.

3453. Can you tell what is the objection to proceeding immediately to increase the reserved rent, instead of waiting until the end of the existing term?—None, if the lessee agrees to it; but as he has got an existing lease, in which he covenants to pay a definite reserved rent until the end of the lease, we do not think it fair to say, "You shall *now* pay us a greater "reserved rent;" we were satisfied with saying, "We will take a less fine now, but you shall "pay an increased reserved rent for the years we add to your lease;" that is, commencing at the end of his present lease.

3454. Would there have been any hardship upon the lessees, if when they came to renew a lease of 200*l.* a year at the end of the first seven years, and they had said, "Put us in "another seven, what is your fine?" you had said, "We will not renew for a fine on the "whole of it, our fine would be, say 400*l.*, we will take a portion of that fine, only 200*l.*, "and in consideration of our remitting the remaining 200*l.* your reserved rent shall be "immediately increased"?—I see no hardship in that, if the terms were calculated fairly.

3455. Is there any obvious hardship on the tenant that you see in that?—There is no obvious hardship, except it is reducing the estate more to rack rent than it was before. I do not see any more obvious hardship in it than in our course.

3456. Do you think there is anything less intelligible in that mode of dealing than waiting for the expiration of the term?—I think it would give rise to a bargain which it would be difficult to arrange, especially without ultimate loss to the lessors.

3457. Supposing you would go on with the tenant renewing every seven years, if you were to take half in fine, and augment the reserved rent in proportion to the other half; if you did not take the fine, would it not be the same thing to the tenant and the same thing to you?—

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you?—That must be done at a certain rate of interest; and I should be afraid you would convert this into a rack rent at disadvantageous terms.

3458. If you took from the lessee the same rate of interest on that portion of the fine which you did not receive that you allowed him on the fine that you did receive, could you lose then?—I think we should lose.

3459. Do you not allow the lessee six per cent.?—Yes, we do; but the conversion of a portion of the fine into an increased rent would be to perpetuate the present disadvantage of the six per cent., whereas we are gradually getting rid of the six per cent. by our system of increasing the reserved rent at the end of the lease.

3460. Do you mean, as to half the fine, by taking it yourself instead of allowing it to him?—Yes; if the half fine be converted into rent. I, perhaps, can make myself understood by taking a case: Suppose the value of an estate to be 110*l.*, and that under the old system the reserved rent was 10*l.*, and a fine taken on the 100*l.*; such a fine for the renewal, seven years lapsed in a lease of twenty years, at six per cent., would be 26*l.* If it were determined to take only 13*l.* in fine, and to increase the reserved rent immediately, instead of taking the remaining 130*l.* in fine, I believe, the annual increase of rent would, at six per cent., be 1*l.* 6*s.* 7*d.* (for the present worth of 1*l.* 6*s.* 7*d.* per annum for twenty years at six per cent. is 130*l.*) But the plan pursued by Trinity College would be to take a fine of 13*l.*, and to increase the reserved rent by 50*l.*, such increased rent commencing at the end of thirteen years. I need hardly say that the latter course would eventually be better for the lessors.

3461. Do you let the estate now at Trumpington at half its value?—Yes; the reserved rent is about half the value.

3462. Was that an arrangement made when there were only two years left in the original lease?—Yes; but it had been previously determined to run it out.

3463. When there were two years only left, you then agreed to grant him a new term at half the rack rent?—Yes.

3464. Since that time have you renewed it again for twelve years at a reserved rent which is about half the rack rent?—Yes; but we have the advantage now of granting only a lease for twelve years instead of twenty.

3465. Had you a twenty years lease at half the rack-rent value?—Yes.

3466. Did you renew it again at the expiration of twenty years at half rack-rent value?—Yes; but only for twelve years.

3467. Did you treat the lessee as having an interest in it that you thought fit to recognize?—We merely thought it a good way of letting the farm.

3468. Do you mean with reference to the interest he had in it at the time?—We did not consider it a favour to him; we were not bound to favour him; but we had a good and responsible tenant in our lessee.

3469. At half rack-rent value?—At half rack-rent value; but we reduced the lease to twelve years; and the fine was proportionably less than for twenty years.

3470. Is the fine the variable thing?—Yes; but it is a great advantage to us to have another fine at the end of twelve years, instead of waiting till the end of twenty.

3471. Do you calculate the fine on the half?—Yes; if the reserved rent be half we calculate the fine on the other half by the six per cent. tables. I have stated that we have doubled, trebled, and quadrupled many of our reserved rents. I have before me a list of about thirty estates, which are still let on the principle of taking a fine with a reserved rent, from which it appears that the old reserved rents would amount to 2,700*l.*, and the new ones amount very nearly to 7,000*l.*

3472. What amount of fines have you sacrificed in the interval to arrive at that result?—If we increased the reserved rent by 100*l.* we should sacrifice at that renewal 26*l.*, and so on at every renewal; but at the end of thirteen years from the first alteration we have an additional annual rent of 100*l.*, which gives 700*l.* in seven years, whereas we should have had only a fine of 26*l.* every seven years on the old principle. Therefore, without taking account of interest, we have 700*l.* instead of 26*l.* in every seven years for every 100*l.* by which we increase the reserved rents. This is an immense advantage. It likewise enabled the college not to mind the sacrifice of running out its leases occasionally.

3473. Do you mean that they had less sacrifice to make?—Yes; the rent having been once increased, or the reserved rent having been made to approach more nearly to the rack-rent value, the sacrifice in losing a fine was not so great; and, such as it was, the college was better able to meet it. We have run out the leases of all houses in Cambridge, and other leases will expire very soon.

3474. Is the purpose you are aiming at, that of getting every thing ultimately into rack rent?—I am not satisfied that it is desirable in all cases to do so. We have generally offered our lessees to renew our commuted tithes at the end of seven years; if, however, the leases had been suffered to pass the ordinary period of renewal, we have not offered to do so, and a great many lessees did not accept the terms, and have not renewed.

3475. Did you offer the same terms of renewal as before?—At the same rate of interest.

3476. Six

3476. Six per cent.?—Six per cent. They did not always like the prospect of the future price of corn, and sometimes they did not think we allowed them enough for expenses of collection and such things; but I should say more commonly the reason was, that they did not care about it, because their own lands were no longer affected by the tithes. I may instance the rectory of Gainford, a large property in lease to Mr. Bowes, M.P.; the reserved rent has been very much increased, and it amounts now to about 600*l.*, and the gross amount of the rent-charges is between 1,800*l.* and 1,900*l.* per annum. Mr. Bowes refused terms that I sent to him in 1839, and the lease will be run out in 1851.

3477. What is your principle with regard to rent-charges; are they leases for twenty years, renewable every seven years?—Yes, renewable every seven years; and the same course is adopted with them as with other property. We do not bind ourselves to renew; and indeed the greater portion of our rent-charges is running out.

3478. Have you had remonstrances during this process, as to such property having been mixed up with mortgages or family settlements?—No; it is extremely rare that any allusion to such matters is made. I know the property is in mortgage occasionally; the tithes are mortgaged, but no remonstrance. I ought to mention, as an instance of a change in our mode of leasing, that the tithe leases of Masham and Kirby Malzeard expired in 1825; they are both large properties; fresh leases were then granted for ten years in both cases; that was a great advantage to the college, and reduced it nearly to rack rent, for a fine of ten years at six per cent. is between seven and eight times the net yearly value. These leases have since been run out after twice granting leases of ten years. I may also mention, that when we increased the reserved rent in any leases the ordinary rule was not to increase it more than up to a third of the rack-rent value.

3479. Is that in regard to tithes only?—No; in all our leases, whether tithes, houses, or land. In a few instances, as in Trumpington, the reserved rent was made more than one third.

3480. Had you any reason for not increasing the reserved rents more than that?—I do not know that we had, except that probably the sacrifice in fine would have been too great at the time to the existing body; and it becomes hardly worth the lessee's while to renew at all on the principle of fines, unless a fine is taken upon a considerable portion of the rent. If the lessee objected to our increasing his reserved rent at the end of his then existing lease we always ran it out.

3481. Have you any mining property?—No.

3482. Does your property consist entirely in agricultural land and houses?—Yes, and tithes; not much in houses.

3483. In regard to houses, have you let the houses run out?—In Cambridge entirely, and also one or two in London.

3484. Do you conceive that house property is a property convenient to hold in rack rent by a body like yours?—Yes; good houses in good towns.

3485. Would good houses in Cambridge be desirable property to hold?—Yes; and in London also.

3486. Is a large portion of the whole property in tithe rent-charges?—Yes; fully one half.

3487. Is that of the present income?—Of the estates, if the leases were run out.

3488. Are you making greater progress in running out tithe rent-charges, and refusing to renew them, than you are as to the estates?—Yes; we do not at all object to run out any tithe leases, whereas we should not like to run out some of our lands.

3489. Do you doubt its being desirable to keep in your own hands common agricultural property?—I think if it consists of good compact farms, or even small compact farms, that it would be an advantage to have them at rack rent.

3490. Would it not make some difference, in your opinion, whether they were near you or at a great distance?—Yes, certainly; and where there is a large property mixed up with many cottages and small holdings, then it is disadvantageous for us to have them in our own hands at rack rent.

3491. Are you considered generally responsible, as a landlord is, in regard to the interest of the district in which you have property, as to contribution for various purposes?—Yes, we are quite so, particularly of late.

3492. Are you not rather more so than lay landlords?—Rather more so with respect to churches, schools, and such objects; we do subscribe annually a good deal towards schools, and we almost invariably subscribe largely to the erection of churches, schools, and such charitable objects connected with our property.

3493. Has not the sense of that obligation very much increased of late years?—I do not know that it has more so with regard to colleges than with regard to other landed proprietors, but there is much more done in that way now than formerly. If any great improvements are being made, even in farm buildings, the lessee very frequently applies to the college for a portion.

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3494. Is it not the custom of the college to contribute to outlays of that kind?—Yes, not unfrequently; I think I may say always.

3495. Is that done upon any general principle, or a discretion arbitrary in each case?—Arbitrarily; but it is frequently about half and half between the parties; that is about the fair proportion, if the improvement is to be taken into account at the next renewal.

3496. Was that the case before you increased the reserved rents?—I do not think that it was so much so.

3497. With the increased approximation to the character of rack-rent landlords, are you getting a greater share of the burdens belonging to that character?—Certainly.

3498. Does your property lie much in large lumps together, forming a great portion of any gentleman's estate, or in slips of land intermixed with other premises?—We have both descriptions; but I should say it is not often much intermixed where it is land, having arisen chiefly from inclosures in which our tithes were commuted for land.

3499. Substantive farms?—Yes; but there are cases of the other description; for instance, we have a large property of that kind in Thurgarton in Nottinghamshire, where I consider it would be a disadvantage to run the lease out, the property being extremely well managed. It comprises a large portion of a small village, which has been in a great degree rebuilt by the lessee not many years ago, and it is now in very good order, and at the special request of the lessee we have hitherto not increased the reserved rent; but such an instance as that is not common; compact farms are advantageous to run out, and we have frequently run them out.

3500. Have you powers of sale and exchange?—No.

3501. Would it not be advantageous that you should have such power?—I rather doubt it. I think we should often get the worst of the exchange; we have now some power under the General Inclosure Act, which gives us the requisite means where it is really wanted, in small matters, but I should not like great powers of large exchange.

3502. Can you state how much you have now in rack rent in point of value?—We have land and houses at rack rent about 6,000*l.* a year, and we have gross tithe rent-charges of about 9,000*l.* in hand. The gross amount of all our tithe rent-charges is above 30,000*l.*, of which about 9,000*l.* are in our hands, and leases of many others are running out; and will be out within six or seven years time.

3503. In regard to that which you have at rack rent, are you able to speak from experience what subtraction you would make on the average, that is, what difference of per-centage there would be in the average, between the gross receipts and that which you really can draw for on your bankers?—Does the question refer to lands or tithes?

3504. The question refers to lands; are not the tithes clear?—No; there is a large deduction from tithes, frequently not less than twenty-five per cent., for collection, poor rates, land tax, and county rates, &c.

3505. Are you able to consider as net three quarters of the gross tithe rent-charges?—Yes.

3506. In regard to the landed estates, what portion of the gross rent do you think you may fairly calculate upon as the net receipt, considering the allowance that you must make for expenses?—I cannot speak definitely upon that; the tenant pays poor rates and all such things, but I should think the repairs and other charges would be about ten per cent. of the gross.

3507. Can you state from your books that result?—I do not think I can; because even when our estates are let at rack rent, we generally covenant for the tenant to do the repairs, &c.

3508. Have you not sometimes an allowance to make for bad tenants?—Very rarely indeed; I think I may say that by loss of rent there has not been one pound in a thousand since I have been bursar.

3509. Have you had a great deal of landed estates at rack rent until lately?—Yes; a good deal near Cambridge, as I have previously mentioned, but not much of tithes.

3510. Are you speaking of leases where the whole of the estate is at rack rent, when you say that you do not lose more than the sum you have mentioned?—I speak of rents in general, whether rack rent or not; we have generally extremely good tenants.

3511. And is the property let upon moderate terms?—Yes; our chief care is to get responsible tenants.

3512. Do you covenant that all repairs shall be done by the tenants?—We do, for the most part; but in the case of inferior, and sometimes of superior farmers, only for tenantable repairs; and then there will occasionally require a large outlay in an estate; but I believe the latter to be the best course to adopt.

3513. Have you not within the last four years been called upon as landlords to improve the farms, whether in houses, cowsheds, cartsheds, or the various other accommodations which the improved state of agriculture or the rise in the habits of the class of farmers has made almost essential?—We have done a good deal, but not at a very serious expense.

3514. That is the class of expenses, together with failures from bad debts, to which the question referred as to the amount which is to be taken of the gross receipts. You contribute to all great outlays?—Yes; we contribute to such things when necessary or thought desirable.

3515. You do not expect, do you, your tenants to lay out money in increasing accommodation, although you expect them to keep things as they are?—No, we do not; but they sometimes do when upon beneficial leases, not otherwise. Our reserved rents at present are something like 10,000*l.* a year. When I say reserved rents, I mean arising from leases on which fines are taken, not leases at rack rent. The reserved rent is large, in consequence of the adoption of the principle of increasing rents.

3516. Have you any of your lands in hand?—No, never.

3517. As to house property, you have stated it desirable or not for such property to be held in the hands of a corporate body according as it is house property of a superior or inferior quality?—Yes.

3518. The possession of house property of an inferior quality should you consider disadvantageous?—Yes, I should think so.

3519. Is that because it is not a kind of property which a corporate body could well make the most of?—Yes; we could not get the rents from the tenants without loss.

3520. Have you any large woods?—No, we have very little wood. I should state that I think our lands are cultivated in much the same way, whether at rack rent or upon beneficial leases; some on beneficial leases are badly cultivated, and some very well, and the same with the others.

3521. You do not think, then, that the quality of tenure has affected much the system of cultivation?—I do not think that it has with us.

3522. Have you much difficulty upon the expiration of beneficial leases as to the state of repair in which the estate is handed over to the college?—No; we have little difficulty as to settling the repairs when a beneficial lease expires, because there is generally a stringent covenant in the lease as to leaving everything in good and sufficient repair, and the settling of the matter is referred to two surveyors. No doubt the sum required to put everything into good state for a fresh tenant frequently turns out to be considerably more than the sum awarded by the surveyors.

THOMAS BATES Esquire examined.

3523. ARE you a fellow of Jesus College?—Yes.

3524. Are you a member of the Chancery Bar?—Yes.

3525. During the time you have been a member of Jesus College have you taken any course with reference to the running out of leases which were held by the tenants who ordinarily renewed?—I became a fellow in 1834; and at that time some leases had been run out, and the property was let at rack rent, and other leases were then running out and have since expired, and the property is now let at rack rent.

3526. Did you find this course of proceeding when you became a fellow?—Yes.

3527. Has it been continued since you became a fellow?—In several cases it has.

3528. Have you refused to renew, or has there been no application to renew?—In some cases we did not give the lessee the offer of renewal; there was a case of tithes, a rectory which belonged to the college; the college determined not to renew, and there was no negotiation for renewal.

3529. In other cases have you offered to renew upon varied terms from the last renewal?—In one case the tenant wished to renew, but he would not accept our terms, and we determined not to renew the lease.

3530. Was that the land or the tithes?—That was the land.

3531. Were the terms you offered higher than those on which he had made his last renewal?—I do not know what his last renewal was; whenever a renewal is made we have a calculation made as to the terms.

3532. Have you not renewed upon fixed terms?—No; as far as I know we have a valuation of what the property is now worth, and we then calculate what the renewed lease is worth.

3533. At what interest?—We generally consider eight per cent.; I believe that was the calculation. It was considered that the party buying a reversionary lease would not lay out money for less than eight per cent.

3534. For what terms of years have your leases generally been renewed?—Twenty-one years for land.

3535. Any lives?—None. And for land the fine would be two years rent; the course was to renew at the end of seven years, when a renewal took place.

 3536. And

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3536. And then do you take two years improved value?—Yes; I believe that was the general calculation.

3537. Are you going upon the principle of not renewing tithe rent-charges?—The one which I have referred to was the only tithe rent-charge we have, at least the only one of any importance, and it was more advantageous to the college to have such a property in possession than in the hands of the lessee, who makes eight per cent. of the money for a renewal; the rent-charge can be collected for about two per cent., and a rent-charge cannot be improved in any way by the covenant or management of a lessee.

3538. With regard to land, are you now going upon the principle of running out?—A large proportion of the land is now run out. I believe nearly all the college wish to run out.

3539. Is that done at a sacrifice?—It is at a sacrifice to the existing fellows; they lose the fine or the greater portion of it.

3540. Was that sacrifice in the course of being incurred when you became a fellow?—When I became a fellow we were receiving the benefit of the leases that had run out, and the fellows appeared to consider that they were bound to continue the same course; they were in as good a position as if no leases had been run out.

3541. Have you some house property also?—We have considerable house property at Cambridge; some of the leases have run out, but near the college; and because there was a plan to alter the buildings, and make new streets.

3542. Have you any house property in London? Do you renew the leases of it?—Yes, we have house property in London; we wish to renew the leases of such property.

3543. Will you state why you wish to renew that?—I am only expressing my own notion and opinion, and which I believe to be the general feeling, which is, that house property is not a desirable description of property for a society to have at rack rent, especially at a distance; they must employ agents; rents run in arrear, and the repair of such property is difficult to manage. It was better to let it on lease with a fine, and for the tenant to have the management of it.

3544. Is the London property of a high class of property or a low class?—It is in the City, Ludgate Hill, and Aldermanbury, and in the Borough.

3545. Are they large houses?—Some of them are; the property on Ludgate Hill is very good property, and the property in the Borough is in the High Street.

3546. Have you had any complaints made by tenants, to your knowledge, of this course of running out property instead of renewing?—Not that I am aware of; I believe, in the case of the tithes, the family of the lessee wished to renew; but there was no complaint made to the college.

3547. No formal remonstrance?—None.

3548. Did you hear of such property being tied up in settlement?—No.

3549. The fact of the property being tied up in settlement was not given as a reason why it should not be run out, was it?—The college did not hear of any settlements, and did not consider them material; they looked to make the most of their property; they had nothing to do with the arrangements of the lessees. No representations were ever made to the college that the parties were entitled to a renewal; at least, I never heard of any.

3550. Is the greater part of your property run out?—The greater part of the land is, or is running out.

3551. As far as you know, is it the course that the present body in college feel disposed to continue?—Yes; but I believe the leases of some small detached properties have been renewed.

3552. Have you found, with regard to detached property, that it was preferable to continue the fining system?—Yes; that the same system should be pursued as in the West of England, of letting the land upon lease with a fine. Some of the college land near Cambridge was run out of lease, some years ago, with the intention of letting it for building; it has been so let; the land near the railway station at Cambridge was also run out of lease some time ago, and the railway station is built upon this land.

3553. Were such arrangements found very beneficial?—Very beneficial; the first-mentioned land is all built upon, and the college received a considerable sum per acre for the land taken by the railway. If there had been a lease for twenty-one years, probably the lessee would have got the greater portion of the money paid by the railway company.

3554. Is that property of which the value has been brought out in a great measure by the accidental circumstance of the railway coming there?—Yes, to some extent; but it is property near the town, and well adapted for building and garden ground.

3555. Has the college other property besides that which it has sold to the railway near the same spot?—Yes; and all well situated for building upon.

3556. Has the college a considerable landed estate now at rack rent?—I do not know the amount; there are several farms.

3557. Does it amount in the whole to several thousands a year?—No; our income from land is not very large.

3558. What subtraction in amount have you found to arise from the burdens incidental to the possession of property at rack rent?—I cannot tell the amount; the burdens are taken into consideration in letting the property at rack rent.

3559. Do you make the tenant covenant to repair when you let at rack rent?—I do not know how it has been done; generally the farms are let in the way customary in the same districts. The leases are let at rack rent with the usual covenants and conditions.

3560. Can you state what is about the general deduction to be made from the gross rent?—No, I cannot. I believe some disputes have taken place at the expiration of the beneficial leases respecting the repair of the buildings.

3561. Have you experienced much difficulty in that respect?—Not much; we employ surveyors and agents, who settle such questions; the college have not much trouble with them.

3562. Do you not take into consideration the dilapidations which have been going on before the estate is run out; that is to say, if it is known that the estate will be run out in three or four years, is it or is it not customary to send the surveyor in to view the property?—I know of one case where a surveyor was sent before the lease expired to look over the buildings, and to make a report upon them.

3563. Do you know if your leases contain the common covenants to repair?—I know that our house leases in London do.

3564. Do you know whether that is so in the case of your leases of lands?—No, I do not know.

3565. Have you had any actions to bring about the repairs?—None.

ARCHIBALD KEIGHTLEY Esquire examined.

3566. WHAT office do you hold in connexion with the Charterhouse?—Registrar and receiver.

3567. Have you the management in a great degree of the Charterhouse estates?—Yes.

3568. Will you state in the rough what is the annual rental of the estates?—It appears by the last annual account, namely, to March 1849, that the estates in London are 1,963*l.*, that is house property; in the country, 16,736*l.*, including about 400*l.* from woods, besides tithes, 1,460*l.*; and quit rents, manorial profits, and dividends on stock, 1,027*l.*

3569. In regard to houses, are those all let at rack rents?—Yes.

3570. Do you find any difficulty in realizing the rents of property of that kind?—I have found none at all; I have no arrears, except one for 38*l.*

3571. What is the nature of the property of which the Charterhouse is possessed; is it small houses or considerable tenements?—The town houses (rented at from 40*l.* to 90*l.* per annum) amount to 980*l.*, ground rents for terms granted under Act of Parliament (the greatest part of which will expire in ten years) 974*l.*, easement rents 7*l.*

3572. What is the subtraction you would feel it necessary to make from the gross rental to reduce it to the net rental?—In regard to town rents, except ground rents, the leases are always for twenty-one years, and on the condition of any tenant coming in doing all the repairs that are necessary; the rent may be said to be clear rent. In the country we find on an average of fourteen years that the repairs and improvements amount to fourteen per cent. upon the rental.

3573. Is that land or houses?—Farms.

3574. Is that irrespective of losses occasioned by bad tenants?—I can only speak of the time since I have been registrar there, which is eleven years, and we have no losses by tenants at all.

3575. Have you been able hitherto to receive the rent without remission?—Yes, without any.

3576. Are your rents supposed to be at the same rate as other landlords in the same district?—Yes; the instructions given to the surveyors are to ascertain the fair rent at the time of letting or renewing each lease, which is for twelve years in the country.

3577. Have you any allowance for the collection of the rents, independent of your salary?—No; I receive a salary, which covers everything. The rents are all covenanted to be paid by the tenants to me at the Charterhouse; there is no expense incurred in the collection.

3578. No expense, except your own salary?—Yes; and that salary is for paying out the rents as well as receiving them; it is for discharging the whole duty of the office, and the receipt is but a small part of it.

A. Keightley, Esq.

19th July 1849.

3579. Do the tenants improve upon these leases, or do they come upon you as landlords for the improvement?—The tenants improve very much upon the leases; they are continually putting manure upon the ground, and draining; they are assisted by us in draining.

3580. What is the mode of assistance, and to what extent?—In some parts of the country they pay five per cent. upon the sum expended by the governors.

3581. The governors doing the work?—Yes; in other places the tenants do the work, receiving half the price of the tiles. In other parts of the country they receive the whole of the tiles. I do not know from what cause the difference arises, but I found that to be the case when I commenced the management, and I did not disturb it.

3582. In regard to the improvement of buildings, and additional buildings, such as hovels, cow-sheds, and such like, are such improvements made by the landlords or the tenants?—Repairs necessary for keeping the premises in as good a state as they receive them are done by the tenants; they are bound by their leases to do them, but the great expenses fall upon the landlords, and they have amounted to fourteen per cent. upon an average of fourteen years.

3583. Does that include the erection of some new buildings?—Yes; upon the first farm I had to deal with in that way we expended six years rental.

3584. Had the farm been let down such an extent?—Yes; the dwelling-house was very old and inconvenient; it was only wonderful how the family, who had lived there for centuries, could have continued to reside in it, and the farm-buildings were wholly out of repair.

3585. Do you think fourteen or fifteen per cent. would be a fair allowance, from your experience, for all outgoings in the way of repairs and improvements incidental to a landlord?—Yes; fourteen years is a pretty long period to take as an average; and taking that average it is fourteen per cent. Within the last six years the expenses have been very great; I found the houses very much out of order; and the governors have spent about 2,500*l.* a year for the last six years in repairs. I have tried to establish a mode by which the accumulation of repairs in one year should be put an end to, by having a regular survey of the different farms, arranged in districts, so that the whole may be surveyed in three or four years.

3586. Then if you take an average of late years, and of a similar period, the per-centage would be larger than fourteen per cent.?—Yes.

3587. What would be about the average of the later period, when you have been going more zealously to work in the way of repairs?—I have not calculated that; the estimate of the first ten years of the fourteen I have mentioned was about twelve per cent.

3588. You have spoken of having expended for the last six years 2,500*l.* a year; what was the rental during that time?—About 16,200*l.* a year, to which that statement of expenses would apply.

3589. Do you find a growing demand of late years, owing to the improvements in agriculture, for tiles, in the way of improvements?—Yes; and I think the tenants have required more bullock-sheds, and things of that kind.

3590. Although this great outlay increases the average for the last six years, looking forward to the next ten years, would it not diminish the average for those next ten years?—I expect so; I apprehend now all the estates have been gone through, and all that was pressing, and of any very great amount, has been done; I expect for the next few years it will be diminished.

3591. Is that fourteen per cent. calculated upon the 16,000*l.* a year, or 21,000*l.* a year?—On 16,000*l.* a year.

3592. Have you any tithe rent-charges?—We have tithe rent at Southminster in Essex.

3593. What allowance for collection or poor rates in regard to the rent-charges would you make to bring them to a net receipt?—Out of 1,460*l.* last year the net sum that came to the governors was 1,256*l.* 156*l.* being paid for rates, and 50*l.* for expenses of collection.

3594. Do you know what the gross sum of the rent-charge is?—It is 1,434*l.*, subject to the provisions of the act. The deduction for rates, on an average of five years, has been 159*l.* per annum; expense of collection 52*l.*

3595. Are all those charges subtracted before they come to the hands of the governors?—The rates are paid by the agent, and are, with the expenses of collection, deducted by him on remitting his balance.

3596. Does that include land tax?—The Charterhouse estates are free from land tax.

3597. Did the Charterhouse ever let land on beneficial leases?—Never; they are restricted by their charter from letting otherwise than for twenty-one years or a less term.

3598. Do you never take any fines?—No.

3599. In the management of these estates is there a considerable charge for surveys and valuations to see that the farms are kept in good order?—There are three surveyors who are employed, and who are paid each time that they go down.

3600. Do they go down annually?—Yes; and I have to go down to hold the courts in some of these places, and wherever there is any important repair to be done, or a large sum to be expended, I make a point to go down and look at the place.

3601. If surveyors have been in the habit of going down, as you state, annually, to inspect the property, how does it happen that the farm you describe got so much out of repair?—It is only lately that the surveyors have began to go round annually,—within the last four years.

3602. What is the annual charge for surveyors?—On an average of the last three years 93*l.*

3603. Is it the duty of the surveyors to see that the buildings are kept in good repair, and the land in a proper state of cultivation, and that they are not run out by a system of over-cropping?—Yes; I give them directions every year; they have to survey about a third or fourth of the district under their care, with all those particular questions put down, and they have to report upon that annually.

3604. Is this a system lately introduced?—Yes, within the last three or four years.

3605. What charge does that impose upon an estate of this kind?—On an average of the last three years forty guineas per annum.

3606. Are the tenants under covenant to repair?—Yes, always; but the repairs they do are, as before mentioned, only the usual tenants repairs.

3607. In answer to one question you made use of the expression, that you wondered how parties could have lived in a house in the state it was, in which it had been held for centuries in the same family; have the same tenants or their families continued occupiers of the same farms for any length of time?—Yes; and of the particular estate I speak of, in Cambridgeshire, the father and the grandfather had been there for a great many years, and all the tenants have been occupying since I became connected with the property, with the exception of one or two; and I know that many of them have renewed their leases two or three times over.

3608. I suppose you are not hard landlords?—We have no difficulty in letting the land. We had a farm to let near Colchester about two years ago, and I had sixteen applications for it.

3609. Do you let your land at the value your surveyors tell you is the fair value of the country?—Always. He has no instructions to let it at any particular low rent, but to let it at a fair rent.

3610. Is your surveyor a person residing in London or in the country?—In the country.

3611. Do you take surveyors of known character in the district?—Yes.

Thursday, 26th July 1849.

F. Bradley Dyne Esquire examined.

3612. Where do you reside?—Gore Court, Tunstall, near Sittingbourne.

3613. Have you estates of your own, and are you also a lessee of Church property?—Yes, I am.

3614. Where is that situate?—In Kent.

3615. Is a portion of the property you so hold both your own and that of which you are the lessee, wood?—Yes. I have 1,100 acres in wood.

3616. Are you not one of the largest owners of wood in the county of Kent?—Yes, I am.

3617. How much of those 1,100 acres is your own freehold?—As nearly two thirds as possible. Two thirds are freehold, and one third is Church property, which I hold as lessee of the Dean and Chapter of Rochester.

3618. Does this property, both the freehold and the leasehold, lay together?—No; a portion of my different farms are wood, and the other portions arable, and the wood I keep in my own occupation.

3619. Do you cultivate your own freehold wood land upon the same principle as you do those which you hold from the dean and chapter?—I do not.

3620. What is the difference in that respect?—I should state that my father, who purchased the lease of the leasehold, gave 5,000*l.* for that which consists of 360 acres. The remainder of my property in wood is freehold. I made a calculation shortly after my father's death, which was in 1820, by which it appeared that we had planted a million of plants upon our two thirds, which was the freehold. Coppice wood with us is of more value than in other parts, inasmuch as hop-poles are greatly in demand in our county, and they

 are

F. B. Dyne, Esq.
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are extremely valuable property. Upon the leasehold portions we have not laid out a single plant, except upon two acres of it which happened to be wet and swampy, quite at the extremity of the tract of wood land, and where, by planting willows, which is a plant that comes up rapidly, you can insure an immediate return; so that even were your lease unrenewed you would have a return for your expenditure; whereas for chesnut and ash, if you plant that, it requires a considerable period to elapse before you get that return.

3621. Have you timber-like trees growing upon your own freehold property?—Yes, we have.

3622. And upon the leasehold also?—Yes, upon those portions of it upon which it will grow. We have a great deal of chalky soil, and where the chalk is at the surface these trees will not grow.

3623. Do you draw a distinction between timber and timber-like trees?—Yes.

3624. What do you call timber-like trees?—Timber-like trees are those, I believe, of the second fall. On the first fall they are called tellows.

3625. Do you cut down oak at the second fall?—If they have come up singly, and not from the stub, and have been left for timber, we leave them.

3626. The distinction then is not between timber and timber-like trees, a distinction in the character of the wood itself, but in the age of the wood; and it is not that one is beech and the other is ash?—No; it is in the age, and not in the sort of wood.

3627. With regard to the coppice for the second fall, what is that used for?—For building, such as lodges, and for general farming and building purposes. They leave beech sometimes for a third fall, for axles of carts and waggons.

3628. Is there any difference as to the coppice in the mode of your treating your freehold and your leasehold estates?—I have already stated that we fill up our freehold, but not the leasehold. As to the felling, as I do not manage my own property, I cannot speak exactly; but I know this, that we have coppice wood where the oak grows very strong, and where there is a large quantity of oak stoolwood, a large quantity of that is felled at the second fall.

3629. Is that on the leasehold as well as on the freehold?—On the leasehold almost entirely.

3630. Would coppice oak growing from stools pay better at twenty-four years than at twelve?—Yes; they are not used, as our other wood is, for hop-poles. Their value is as coppice for the sake of their bark, which is of considerable value.

3631. Are they not used for hop-poles at all?—I should say certainly not.

3632. Have you made a calculation of what is the different value of the produce of an acre of wood in your own possession as freeholds, and an acre belonging to the dean and chapter which you hold as lessee?—I have not.

3633. Have you ever found any inconvenience from the dean and chapter insisting upon too many tellows and maiden trees being left?—I have been told by my steward that the coppice wood will become valueless if that is the course pursued; and I was told by an eminent surveyor at Maidstone, who conducts as large woods almost as any one, that there really and truly will be an end of the value of coppice wood if so many timber trees are preserved.

3634. Have not the lessor and lessee always a conflicting interest in that case?—Yes, unquestionably.

3635. Would not the lessee, probably, therefore be disposed to pay a considerable sum to have the right of timber, and to get rid of the power of the lessor to spoil his coppice wood?—Yes; there can be no question about it.

3636. Should you think it a very desirable thing to become the possessor of the leasehold property?—Inasmuch as we lay out a good deal of money in the way of improving the other land of which I am the freeholder, and continue persisting in doing so, I should be very glad to become the proprietor of that, and to do by that what I have done by my own freehold. In our country the underwood is of much more value than the timber, so much so indeed, that it is grown into an adage, that the underwood will buy the horse before the timber will buy the saddle.

3637. If this leasehold property were your own should you cut down the timber and turn it into coppice wood?—I should treat it as I do my own freehold, which is, to have my timber very spare in quantity.

3638. If you saw a very fine tree which you took a fancy to would you keep it?—Not beyond a certain time; when it has too large a head, and overspreads the underwood, then we cut it down.

3639. Which is of the most rapid growth, the Spanish chesnut or the ash?—The ash.

3640. What do you conceive to be the annual value of, say, fifty acres of coppice wood?—I cannot say.

3641. Can you state what it would be rented at?—I cannot, inasmuch as I almost always occupy the wood land myself.

3642. Can you state what would be the probable income of fifty acres to you?—It is not possible, as there are such great varieties in quality. You may sell sometimes an acre at 50*l.*, 60*l.*, or 70*l.* an acre, and they are constantly sold at 10*l.* an acre, 15*l.* an acre, and 17*l.* an acre. There is every variety of quality.

3643. Take land of the same quality, as far as you can take the leasehold land in your possession, and compare it with land of your own of the same quality as near as you can, and state what would be the comparative value of an acre?—I am hardly able to form a definite opinion upon that subject.

3644. Is there a great difference between the value of them?—I really cannot state it.

3645. Have you the means of ascertaining?—I am unable so to do.

3646. Have you considered the subject of the enfranchisement of this property, or of the buying of the lessors interest out?—It is only two days ago that my attention was attracted to this document, which is a lease of this property which was purchased by my father in 1801 for 5,000*l.* Upon reference to this document, I found inside this resolution from the Dean and Chapter of Rochester, which turned my attention to the fact of there having been an expectation held out to parties that on the payment of a year and a half's improved value, those would be the terms upon which a renewal might be expected. That paper is as follows. It is addressed to J. H. Bradley, Esquire, Gore Court, near Sittingbourne, Kent. "Cathedral Church of Rochester. At a chapter holden on the 27th day of June "1804, the dean and chapter having taken into their consideration that the general "practice of the cathedral churches and the colleges in both universities is, and has been "for some time past, to demand for a renewal of seven years, on lands and tithes let upon "leases of twenty-one years, a fine of one year and a half of the improved rent, or true "annual value (the reserved rent being deducted from such annual value previous to the "calculation of such fine), it was this day resolved that the same practice be adopted in this "church from and after the 5th day of January 1805; and that the lessees thereof be forth-"with informed of this their resolution. Sir,—Above we send you a copy of a resolution of "the Dean and Chapter of Rochester respecting the calculation of fines on future renewals "of leases. We are, Sir, your most obedient servants, W. and E. Twopenny, chapter "clerks."

3647. You have stated that your father bought this lease for 5,000*l.* in 1801; how many years purchase would that be?—I cannot state the number of years purchase; but it may be thought my father was not a very prudent person when I state the annual value. My father gave 5,000*l.* for a lease of this property, the annual value of which at this moment is 77*l.*; that is the landlord's interest and tenant's interest, the entire——

3648. Do you consider that the paper which you have produced shows that there was some sort of confidence in the expectation of renewal?—Yes; certainly.

3649. What was the annual value of the property at the time your father purchased it?—I cannot state; but there was always a great demand for hop poles, even until the modern improvements of planting had supplied that great demand, and the value was almost as great then as now. We have met the demands by improvements, as my father did upon his own freehold.

3650. Had you hop grounds in the vicinity of these wood lands?—Yes; within eight or ten miles.

3651. Was the purchase so made partly to supply those hop grounds?—It would be an inducement to my father, probably, especially when I come to look at the price, as it seems to be an enormous price.

3652. Is it your opinion that the value of that kind of property would be much greater in the hands of individuals holding it enfranchised than as leasehold property?—Yes; I am certain that I should improve my leasehold property considerably, and I should lay out in the way of planting largely. My first occupation would be to increase my nurseries, and to proceed to improve the property of planting.

3653. Could you afford to give a larger fine, supposing you had a lease for twenty-one years, of the woodland, and renewable every twenty-one years?—It is a very considerable time before you get a return of chesnut and ash.

3654. Supposing the lease to be renewable only once in the twenty-one years, with a power on the part of the lessor to see that the wood is properly looked after, could you afford to give a larger fine than now?—It would depend upon the certainty of the terms, and if you were quite sure of getting it at the end of twenty-one years. If the fine was at a year and a half's improved value, and if you knew that you would have it for a certain term on the payment of the improved value of a year and a half, then it would be worth giving a larger sum.

3655. Could you do anything as to improving wood without a certainty of tenure?—Certainly not, without a certainty of tenure.

3656. Must there not be constantly a conflict of interests between lessor and lessee in the case of wood?—Yes.

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3657. Would not the value of the whole of the property be very much increased by their interests being joined?—I should conceive that it must be so, if there was an opportunity of improvements, and that opportunity is prevented by means of the power of renewal.

3658. For that improved value, which would be thus obtained, is it your opinion that the lessees would be content to pay a fair consideration?—I should think that they ought to do it; that is, that it would be a consideration in the bargain. The present actual value and its capabilities of improvement would be two matters of calculation.

3659. Would not gentlemen be more frequently anxious to become possessors in fee of their woods than almost any other lands, having reference to the game, and so on?—From my own experience I should think it would be a desirable thing for a country gentleman, where it was near to his residence, and mixed up with his other property, obviously it would be so.

3660. What part of Kent do you reside in?—I reside quite in the centre of Kent, near Sittingbourne.

3661. Does your property run up to the chalk there?—A mile back there is chalk. This is a very remarkably fine soil where my house is situated.

3662. At what depth do you come to chalk?—We come to chalk in some places about two feet, and in some about four or five inches.

3663. Will timber grow where chalk is two feet underneath?—Yes.

3664. Have you turned your attention, or have you made any calculation, as to the terms that it would be prudent to give for enfranchisement?—No, I have not turned my attention to the question. I have had the tables laid before me; but Mr. Murton, who has the charge of my wood, knows more about it than I do, and he is in attendance and may be able to give the Commissioners more information upon the subject.

The peculiar value of the underwood of this country, arising from the extensive cultivation of hops, which so largely predominates at present over other counties in this respect, a continuance of which state of things can never be secured to us, renders the value of our underwood dependent on such continuance, and so a precarious value.

Mr. W. Murton.

Mr. William Murton examined.

3665. Where do you reside?—At Tunstall, near Sittingbourne, Kent.

3666. Are you woodreeve of the Archbishop of Canterbury?—Yes.

3667. Have you had a great deal of knowledge and experience in the management of wood?—I have, all my life.

3668. Have you formed any opinion as to the relative advantages the wood has in the hands of the proprietor and under lease?—I can inform the Commissioners how I have treated the archbishop's woods which are in hand, and how woods in the hands of lessees have generally been treated. The archbishop allows me to treat his woodlands as I did those of any other gentleman of property when I came into the agency eleven years ago, by planting up and taking care of them.

3669. To what extent has the archbishop woods in Kent?—I should think in his own hands about 2,300 or 2,400 acres.

3670. Both coppice and timber?—Yes.

3671. Have you any idea what the annual value of it is?—I was written to by Mr. Hodson, the receiver, and he has an account which I think he has furnished this Commission with.

3672. Do you know what it is?—I do not know.

3673. In the case of the woods in hand, have you the management of the underwood and of the timber?—Yes.

3674. What proportion of tellows do you leave?—We leave all the maiden oak we can get.

3675. Do you call maiden oak at the first fall a tellow?—Yes.

3676. As well as the stub?—Yes; but not left upon the stubs.

3677. How many do you leave?—As many as we can get; ten, fifteen, or twenty to the acre.

3678. Do you consider that that number hurts the underwood?—I think we all leave too many. I think that is a general fault; the underwood in our country is the most material produce.

3679. Have you not only the management of the archbishop's woods in hand, but have you also the overlooking of some of his woods that are let to lessees?—Yes, I have.

3680. What is the difference in respect to their management as to the timber?—There is not much difference as regards the timber; but the underwood is not planted up.

3681. Do you think there is not much difference as to the timber?—I do not see any difference as to the timber in the woods I have the care of.

3682. Looking at the estates of private gentlemen, and looking at the estates of the archbishop in the hands of lessees, not in his own hands, do you see any great difference in the amount of timber preserved?—I think, generally speaking, there is too much timber left upon the leased wood land. I have endeavoured to prevent that, because I am quite satisfied of this, that that which is the interest of the lessor is the interest of the lessee, and that the interest of the lessor and lessee is not to have too much timber in the wood.

3683. Do you mean that the timber is not so fine where there is so much of it?—No; the effect of it is that it destroys the underwood.

3684. The lessor has not the same interest in the underwood that the lessee has, but his interest is mainly in the timber, is it not?—The lessee's interest is in the timber; but then his interest comes back again in respect of the underwood in the amount of renewals in fines.

3685. Do you mean that according to the value of the underwood the annual value of the property is increased?—Yes.

3686. What is the value of the fall carefully cultivated of Spanish chesnut and oak per acre?—When it has been planted I have sold it for 50*l.* or 60*l.* an acre.

3687. When it has been carefully filled up in that way have you sold it for any such sum?—I have sold it for 30*l.* or 40*l.* an acre.

3688. Do you know Mr. Hodge's wood?—Yes.

3689. They have never been planted, but all have been filled up, have they not?—Yes.

3690. Do you not know that he sells them for 50*l.*?—Mr. Neaves tells me so.

3691. That is as profitable as arable land, is it not?—It is the most profitable land.

3692. Would you give as much rent for a large wood of coppice as you would for arable land?—I would. The quality of the wood is good, and the soil good for growing.

3693. Would you give as large a rent for coppice held under lease of the Dean and Chapter of Canterbury, or of the archbishop, as you would for coppice held under a private gentleman, when you had the timber yourself?—No.

3694. Is not the impression, where too much wood is preserved, that the coppice which is the property of the tenant is seriously injured?—Yes, certainly, where too much timber is preserved.

3695. Taking Kent generally, should you say that the coppice belonging to the archbishop and the dean and chapter is not worth as much to the tenant as the coppice where the property is in the hands of the owner and he has the timber?—The coppice of the Archbishop of Canterbury is worth as much as that of any private gentleman, because it is in his own hands.

3696. But in these cases, where it is in the hands of a lessee, is it then worth as much?—It is not, because it has not been planted up.

3697. Is coppice generally in the hands of ecclesiastical bodies so valuable as in the hands of other parties generally?—Certainly not, in consequence of being neglected.

3698. Would the value of that property be much increased by enfranchisement?—I should say that it would.

3699. Much increased?—Yes, it would.

3700. Would it be a very saleable property?—Yes.

3701. Should you think a gentleman would be willing to exchange land for it, or to purchase it?—Yes. I think good wood land in the county of Kent is as saleable as any property we have; but it differs in that respect very much according to that locality. I have just come out of Shropshire and Warwickshire. I have been over a great deal of wood land in those two counties, and I find that in Warwickshire, not a great way from Birmingham, there are so many purposes to which wood is converted, that wood land would be a desirable property. When I get into Shropshire I find that is not the case; it varies so much in the position in which it is.

3702. But with regard to Kent, do you think it is as valuable as any property, or even more so?—It is as valuable; and if taken care of it is the nicest property you can possibly have.

3703. Generally speaking, would it be disposed of to advantage?—There is no doubt about it.

3704. Would gentlemen be anxious to have it rather more than other property, in consequence of the game, and so on?—There is no doubt about it. There is a great deal of interest in it too, the planting.

3705. You say if there is too much timber left it hurts the coppice, and then the lessee is injured by that. You say also, the uncertainty of the lessee's term prevents his planting

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and filling up. So that in the case of leaseholds the coppice is injured in two ways, by there being too much timber, and the lessee having no motive to plant if he could have a certainty of renewal of his lease. Would it not be worth his while to give something for it?—There is no doubt about it; the great thing for the lessee would be certainty.

3706. And if in addition to that certainty it was put into his hands so that he could manage the timber as he liked, would not those two circumstances render the value of the property considerably greater than it is at present?—Certainly.

3707. Do you think the matters of importance are the certainty of renewal and no reservation of any part of the timber?—Yes.

3708. If you were managing a timber estate, should you recommend the fellows to be preserved in considerable quantities, or but few?—Very few indeed. You cannot have both underwood and timber.

3709. What is your maximum?—I should leave very few indeed on an estate that I had the management of. I would leave five or six, or six or eight, upon an acre, looking forward to find timber enough for the repair of an estate. You buy foreign timber so cheap now.

3710. You have said that there are from fifteen to twenty on the land which you manage, and that those were as many as you could well put in. Do you think that bad management?—Yes; I think we always leave in too many; it is like hoeing your own turnips. It is said, as a proverb, that no man can hoe his own turnips, he is always afraid to cut enough.

3711. Are you of opinion, in the case of the archbishop's leasehold woods, that if he were to give them entirely into the hands of the occupier, allowing him to do what he pleased with the timber, that he would be able to get a larger sum from the leaseholder?—I think he would. It would be met by finding different plants, and a different mode of treatment. Mr. Deedes, the member of our county, and myself, were to have met for the purpose of seeing if we could hit upon some course to enable the lessee to plant.

3712. Is it not generally thought that the present mode of dealing with Church property, giving beneficial leases and renewing every seven years, is not an advantageous mode of dealing with that property?—Yes.

3713. Do you consider it as strongly disadvantageous with respect to wood as to land in general?—Yes; I consider it quite as objectionable with regard to wood as other property. The great difficulty is the uncertainty of the fine. If a man knows what he is going to do in leasing property, and that when his lease is going to be renewed he is treated what I call fairly, that is, if he knows he shall be charged one and a half or two years, or whatever it may be, for his fine, that is one thing, he knows what he is about; but it is a very different thing where the fine is arbitrary.

3714. Do you see any inconvenience arising from revaluation, so as to get at the annual value at the time?—I think the lessees would be satisfied with revaluations if they were done by people competent to do so.

3715. And at sufficiently long periods, provided the rate of the fine was a fixed one?—Yes; that is the most important thing, the rate of the fine.

3716. You are extensively acquainted with East Kent, where there is a great deal of property belonging to the dean and chapter and the archbishop. Do you think that the tenants of that property would be content to pay reasonably for having a certainty of renewal?—As far as I can say, if they were certain of renewal, I believe that the cultivation would be different.

3717. Do you think they would be willing to pay for that certainty?—Yes, they would.

3718. They might pay in two different ways, they might pay by paying a larger fine, or they might pay by having an increased reserved rent and not a larger fine. Is it your opinion that that would be objected to in any way?—I have not had knowledge about that enough to know whether the reserved rent being increased would be objectionable; but if it only came to the same thing in the matter of money, it appears to me that it would be indifferent which it was.

3719. Do you think, if it came to the same thing in point of money, that it would be objectionable?—I should think it would not.

3720. Should you think they would prefer it, if it came to the same in amount of money, that it should come gradually in the way of reserved rent rather than an increased fine?—I should think that they would prefer it.

3721. Have you had any talk upon that subject in the county of Kent?—No, I have not.

3722. *To Mr. Dyne.*—Supposing a right were established on the part of the tenant to have a renewal, there being a valuation only once in twenty-one years, would that enable a lessee to improve common arable land?—I conceive that it would, and pretty nearly insure a fair return for the outlay, and that you might lay out with a fair prospect of return, because you could towards the latter end of a long lease farm less expensively, and you may exhaust all the extraordinary benefit you may have put into the land by way of improvement before the end of that term. Not so, however, of buildings erected.

3723. Could you do so, supposing you were farming under covenants?—Yes; because covenants only secure good ordinary cultivation. To this may be added extraordinary outlay, which you may withdraw towards the close of the term.

3724. *To Mr. Murton.*—What is your opinion upon that subject?—The important thing is to look at the kind of land you are going to farm. If you are going to farm wet land, and have to drain it, then it requires a considerable time to obtain a fair return.

3725. How long do you consider a tenant is in recovering the expense of draining?—I think that a tenant, if he has done it, would recover the expense of draining in seven or eight years.

3726. Would not, therefore, twenty-one years be very ample and abundant time under such circumstances?—Yes; there is no doubt about it.

3727. *To Mr. Dyne.*—Would tenants be tempted to treat the land in the way you speak of at the end of the lease, provided they were entitled to a renewal upon a revaluation?—No, they would not; they would not treat it in an unfair way. And I make that observation in order to draw a distinction between wood and ordinary arable land, and I should say, with respect to wood land, it would not be worth a man's while to cultivate it upon a twenty-one years lease, unless he was certain of the terms of his renewal.

3728. Supposing the Church had, for example, two estates, each of 900 acres, one of arable land and the other of wood land, would they ordinarily have a right to expect as much profit from the wood land as from the arable?—Yes; if the quality of the soil is good, in the case of the wood. Generally speaking, the soil of the wood land is worse than the arable land which has been grubbed; the fact being, that people have grubbed that land which could be cultivated most profitably as arable land.

3729. Suppose you had a lease of twenty-one years, would that induce you to fill up wood land?—No; I think there is a question about that. It would, if my fine was settled; but it would be even then a nice point, because I should not get the benefit under three growths; that is, three times twelve, or thirty-six years.

3730. How long a term would be necessary to induce lessees to fill up with chesnut and ash?—That is a very nice point indeed; it wants a good deal of thinking about.

3731. If you knew there was a certainty of renewal, but upon a revaluation, would there be sufficient inducement to fill up?—I think I should; but I think many would not. It would make some difference if you were paid for your underwood when you left.

3732. You value underwood, do you not, down to a farthing?—Yes, we do; but not to the lessee. He cannot cut with waste; a lessee cannot cut under seven or eight years; and they are not paid when they leave, supposing the lease is run out.

3733. Does the property of which we are speaking as readily find purchasers as any other description of property?—Yes. I think good wood land the most desirable property.

3734. If it were to be enfranchised, could it be enfranchised upon as favourable terms as any other?—There is no doubt about it. Everybody would like wood land, and good marsh land or pasture land.

3735. Is it not quite certain, with regard to wood land, that there must necessarily be a loss when the lessor has one interest and the lessee another?—There ought not to be two interests.

3736. But, in point of fact, is not that always the case?—Generally speaking that is so.

3737. In the way leasehold woods are managed is there not necessarily a loss, not only to the lessor and the lessee but to the whole country indeed?—Yes, there is.

3738. Is the value of coppice wood in Kent a fluctuating value?—Very fluctuating; the last year has been a wretched year. Two years ago I may venture to say it was from thirty to forty per cent. higher than it was last year. I have 5,000 or 6,000 acres of wood under my care, and I treat the archbishop's just as I have done others.

3739. The archbishop has his in hand, has he not?—Yes.

3740. Is not the difficulty where the woods are in the hands of the lessee?—Yes. I do not see the plants put in. In the case of a lessee there is another very material thing, although it may appear a very trifling matter, but a great deal of the woods are wet in Kent; if they are not surface drained the underwood goes to rack, and gets rotten.

3741. Is that all by open drains?—Yes; you cannot do anything else; you cannot underdrain in the case of woods.